

S.B. 644 (Effective immediately)
 S.B. 649 (Effective immediately)
 H.B. 248 (Effective August 26, 1985)
 H.C.R. 125

(May 23, 1985)

H.B. 2 (Effective upon adoption of
 Constitutional amendments
 proposed by H.J.R. 6)

Sent to Governor
 (May 23, 1985)

S.C.R. 94	S.B. 623	S.B. 1105
S.B. 67	S.B. 625	S.B. 1126
S.B. 79	S.B. 670	S.B. 1173
S.B. 253	S.B. 748	S.B. 1185
S.B. 401	S.B. 754	S.B. 1193
S.B. 402	S.B. 767	S.B. 1232
S.B. 426	S.B. 792	S.B. 1242
S.B. 449	S.B. 797	S.B. 1253
S.B. 483	S.B. 803	S.B. 1254
S.B. 551	S.B. 813	S.B. 1264
S.B. 552	S.B. 851	S.B. 1289
S.B. 553	S.B. 853	S.B. 1292
S.B. 564	S.B. 862	S.B. 1329
S.B. 596	S.B. 885	S.B. 1331
S.B. 602	S.B. 909	S.B. 1341
S.B. 612	S.B. 910	S.B. 1349
S.B. 615	S.B. 1093	S.B. 1376

Sent to Secretary of State
 (May 23, 1985)

H.J.R. 27

SEVENTY-SEVENTH DAY

(Friday, May 24, 1985)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Mauzy, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Washington, Whitmire, Williams.

A quorum was announced present.

Senator Roy Blake offered the invocation as follows:

Our Heavenly Father, help us to realize in the Senate and in the House and in the lobby that we will all survive Tuesday morning whether or not some of this legislation passes and becomes law. Be with us these last few days. We ask these things in Thy name. Amen.

On motion of Senator Mauzy and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE

House Chamber
May 24, 1985

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 842, Relating to administrative revocation of paroles, mandatory supervision, or conditional pardon of releasees convicted of a felony offense involving a penal sentence for an act committed while on administrative release....

S.B. 550, Relating to suspending or denying a minor's driver's license or permit for conduct that violates certain State laws. (Substituted)

S.B. 993, Relating to credit in the Employees Retirement System of Texas for service as a custodial officer. (Substituted)

S.B. 966, Relating to the establishment, acquisition, and reception of public interests in private roads in certain counties; providing for recording of interest and notice to owner and owners. (Amended)

S.B. 969, Relating to the provision of housing for the elderly and to the powers and duties of the Texas Housing Agency, corporations organized under the Texas Housing Financing Corporation Act, and the Texas Department of Aging. (Amended)

S.B. 454, Relating to the participation of judges of statutory county courts in certain counties in the administration and supervision of probation offices.

S.B. 1169, Relating to the creation, establishment, administration, powers, and duties of the Texas National Research Laboratory Commission.

S.B. 569, Relating to the use of a merit system of personnel administration by certain State agencies and the abolition of the Texas Merit System Council.

S.B. 631, Relating to a processing fee for a dishonored check given in payment under a retail charge agreement.

S.B. 267, Relating to medical care and financial assistance for certain adopted children.

S.B. 844, Relating to a medical advisory board within the Texas Department of Health to assist the Texas Department of Public Safety division of driver's licensing.

S.B. 410, Relating to the licensing of hospitals and to construction plan approval; providing authority to the Texas Board of Health to charge fees for hospital construction plan reviews and surveys. (Amended)

S.B. 577, Relating to the protection of endangered, threatened, or protected plants; authorizing certain fees.

S.B. 32, Relating to the authority of a justice of the peace or a medical examiner to permit the taking of body parts and body tissues in certain cases for transplants or other treatment and providing immunities in certain civil... (Amended)

S.B. 1170, Relating to the meetings of the Texas State Board of Medical Examiners, to registration of practitioners and interns, to grounds for refusal to admit persons to examinations and to... (Amended)

S.B. 1435, Relating to the issuance of bonds for additional building projects by the Texas Public Building Authority and handling of funds and bond proceeds. (Amended)

S.B. 1018, Relating to restrictions, duties and obligations of a surface owner in connection with Relinquishment Act leases on behalf of the State of Texas and the authority of the Commissioner of the General Land Office.

S.B. 1409, Relating to the exemption from sales tax of certain tangible personal property and to proof required under the Sales Tax Act to show that items have been exported outside the territorial limits of the United States. (Amended)

S.B. 681, Relating to powers, duties, and qualifications of and fees charged by notaries public and to regulation and commissioning of notaries public by the secretary of state. (With amendment)

S.B. 765, Relating to the manufacture for sale out of state of gambling devices. (Amended)

S.B. 540, Relating to civil service status of certain city employees, including those employed in specialized police divisions. (Amended)

S.B. 381, Relating to rulemaking by the State Pension Review Board.

S.B. 699, Relating to regulation of certain iron ore and iron ore gravel mining and reclamation activity. (Amended)

S.B. 1139, Relating to the authority of a toll road authority to regulate or prohibit the placement of signs on toll roads. (Amended)

S.B. 192, Relating to the conveyance of certain State real property in Fort Bend and Harris counties and to the use of the proceeds. (Amended)

H.J.R. 37, Proposing a constitutional amendment prohibiting the imposition of income taxes.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

REPORTS OF STANDING COMMITTEES

Senator Caperton submitted the following report for the Committee on Criminal Justice:

H.B. 1055

H.B. 1573 (Amended)

H.B. 1307

C.S.H.B. 2388

H.B. 579

Senator Blake submitted the following report for the Committee on Administration:

H.B. 2375 (Amended)

S.R. 455

S.R. 464

S.R. 483
H.C.R. 78
H.C.R. 184
H.C.R. 169
S.R. 485

Senator Traeger submitted the following report for the Committee on Intergovernmental Relations:

H.B. 2506
H.B. 1401
H.B. 2458
H.B. 2457
H.B. 2422
H.B. 2419
H.B. 2412
H.B. 2404
H.B. 2389
H.B. 2218
H.B. 2195
H.B. 2010
H.B. 1936
H.B. 1240
H.B. 1425
H.B. 1173
H.B. 873
H.B. 870
H.B. 477
H.B. 744
H.B. 712
H.B. 260
H.J.R. 54
H.B. 2473
H.B. 2370
H.B. 968
H.B. 2377
H.B. 2497
C.S.H.B. 2386
H.B. 2371 (Amended)
H.B. 1985 (Amended)
H.B. 1220 (Amended)
H.B. 2474 (Amended)
C.S.H.B. 1986

Senator Jones submitted the following report for the Committee on Finance:

S.B. 1495
H.B. 952
H.B. 1385
H.B. 2043
H.B. 2299
H.B. 2414
H.B. 2434
H.B. 2465
H.B. 2466
C.S.S.C.R. 181

C.S.H.B. 498**C.S.H.B. 910**

Senator Farabee submitted the following report for the Committee on State Affairs:

H.B. 1655**H.C.R. 141****H.B. 1273****H.B. 2509****H.B. 1903****H.B. 1975****H.B. 2316****H.B. 1585 (Amended)****H.B. 2438 (Amended)****C.S.S.C.R. 162****C.S.H.B. 1825**

Senator Parker submitted the following report for the Committee on Education:

H.B. 158**H.B. 978****H.B. 986****H.B. 1120****H.B. 1304 (Amended)****H.B. 1525****H.B. 1921****H.B. 1968****H.B. 2228 (Amended)****H.B. 1992****H.B. 2437****C.S.S.R. 481****C.S.H.B. 501****H.C.R. 99**

Senator Harris submitted the following report for the Committee on Economic Development:

H.B. 1363**H.B. 1908****H.B. 2001****H.B. 1553****H.B. 1775**

Senator Uribe, Acting Chairman, submitted the following report for the Committee on Health and Human Resources:

H.B. 2012

Senator Brooks submitted the following report for the Committee on Health and Human Resources:

H.B. 875**H.B. 2174****H.B. 1744****C.S.H.B. 1732****C.S.H.B. 2091**

CO-SPONSORS OF HOUSE BILL 805

On motion of Senator Sharp and by unanimous consent, Senators Lyon and Farabee will be shown as Co-sponsors of H.B. 805.

BILL AND RESOLUTIONS ORDERED NOT PRINTED

On motion of Senator Blake and by unanimous consent, the following bill and resolutions were ordered not printed:

H.B. 2375 (Amended)

S.R. 455

S.R. 485

SENATE RESOLUTIONS ON FIRST READING

On motion of Senator Barrientos and by unanimous consent, the following resolutions were introduced, read first time and referred to the Committee indicated:

S.R. 518 by Barrientos

Administration

Encouraging commercial development of space.

S.R. 520 by Brooks

Administration

Directing Health and Human Resources Committee to conduct legislative review of Vendor Drug Program.

S.C.R. 183 by Parker

Administration

Establishing an interagency working committee at the state level to exchange information of mutual interest and concern and to share data relating to the fulfillment of each agency's responsibilities to protect the public health and the environment.

SENATE RESOLUTION 480

Senator Howard offered the following resolution:

WHEREAS, It is a great privilege and a genuine pleasure for the Texas Senate to honor well-respected veteran Associated Press writer and widely acclaimed reporter of Texas governmental affairs, Mr. Garth Jones, after more than 30 years of distinguished service; and

WHEREAS, A native of Texas, Mr. Jones graduated from high school in Vernon, Texas, where he was editor of the school newspaper and attended McMurry College in Abilene, Texas, where he edited the college paper and worked on the staff of The Abilene Reporter-News; his newspaper career was interrupted during World War II when he volunteered for duty with the 112th Texas National Guard Cavalry and served as a captain in the Philippine Islands and on Guadalcanal; and

WHEREAS, Mr. Jones returned to The Abilene Reporter-News in 1946 and later joined the Associated Press bureau in Dallas, Texas, where he remained for 10 years; and

WHEREAS, Assigned to the Austin bureau of the Associated Press in 1956, Mr. Jones became bureau chief in 1961 and served with distinction in that capacity until he "stepped down" to become an Associated Press writer in 1983; and

WHEREAS, Mr. Jones has covered every Texas governor since Governor Allan Shivers and has reported on the activities of the Texas Legislature for 17 sessions in an objective and conscientious manner; and

WHEREAS, For over 30 years, Mr. Jones has been a reliable source of political news for the people of Texas; he has maintained a tradition of providing readers with the most vital information in a responsible and accurate manner; and

WHEREAS, Throughout his life he has been strengthened by the loving support and companionship of his wife, Nancy, who is a former newspaperwoman; together they have raised two lovely daughters; and

WHEREAS, It is appropriate that the Texas Senate recognize Mr. Jones and commend him on his many years of excellent service to the State of Texas; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 69th Legislature, congratulate Mr. Garth Jones on his numerous accomplishments and extend its appreciation to him for his significant contributions in recording the history of this state; and, be it further

RESOLVED, That a copy of this Resolution be prepared under the seal of the Senate for Mr. Garth Jones as a token of great admiration and appreciation from the Texas Senate.

The resolution was read and was adopted.

On motion of Senator Blake and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

GUEST PRESENTED

The President presented Mr. Jones to the Senate.

Mr. Jones addressed the Senate, expressing his appreciation for being honored by the Senate.

GUEST PRESENTED

Senator Jones was recognized and introduced the Capitol Physician for the Day, Dr. Daniel M. Kelly of Burnet.

The Senate welcomed Dr. Kelly and expressed appreciation for his service.

CONFERENCE COMMITTEE REPORT SENATE BILL 1238

Senator Howard submitted the following Conference Committee Report:

Austin, Texas
May 24, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.B. 1238 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

HOWARD
TRAEGER
HENDERSON
JONES
URIBE

On the part of the Senate

A. SMITH
GAVIN
LEE
PATRICK
ECKELS

On the part of the House

**A BILL TO BE ENTITLED
AN ACT**

relating to the regulation, licensing and fees of insurance, health maintenance organization, and pre-paid legal agents and insurance adjusters.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 7(b), Article 3.75, Insurance Code, as amended, is amended to read as follows:

(b) The Commissioner of Insurance shall collect in advance from variable agent applicants a nonrefundable license fee in an amount not to exceed \$50~~[-, and]~~. Unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, the Commissioner of Insurance shall collect in advance from variable agent applicants an examination fee in an amount not to exceed \$20. The State Board of Insurance shall determine the amount of the fees. A new examination fee shall be paid for each and every examination. The examination fee shall not be returned under any circumstance other than for failure to appear and take the examination after the applicant has given at least 24 hours notice of an emergency situation to the Commissioner of Insurance and received the commissioner's approval. All fees collected pursuant to this section shall be deposited in the State Treasury to the credit of the State Board of Insurance operating fund to be used to administer the provisions of this section and Article 21.07-1, Insurance Code, as amended.

SECTION 2. Section 7(d), Article 3.75, Insurance Code, as amended, is amended to read as follows:

(d) Licenses which have not expired or which have not been suspended or revoked may be renewed by filing with the State Board of Insurance a renewal application and paying the renewal fee ~~[upon request in writing of the agent and payment of a renewal fee]~~ set by the board in an amount not to exceed \$50 [-] on or before the expiration date of the license. If a license has been expired for not longer than 90 days, the license may be renewed by paying to the board the required renewal fee and a fee that is one-half of the original license fee. If a license has been expired for longer than 90 days but less than two years, the license may be renewed by paying to the board all unpaid renewal fees and a fee that is equal to the original license fee. If a license has been expired for two years or longer, the license may not be renewed. A new license may be obtained by complying with the requirements and procedures for obtaining an original license. At least 30 days before the expiration of a license, the Commissioner shall sent written notice of the impending license expiration to the licensee at his last known address. This subsection may not be construed to prevent the board from denying or refusing to renew a license under applicable law or rules of the State Board of Insurance.

SECTION 3. Section 7(e), Article 3.75, Insurance Code, as amended, is amended to read as follows:

(e) Any agent licensed under this article may represent and act as agent for more than one insurance carrier any time while his or its license is in force, if he or it so desires. Any such agent and the insurance carrier involved must give notice to the State Board of Insurance of any additional appointment or appointments authorizing him or it to act as agent for an additional insurance carrier or carriers. Such notice must set [for] forth the insurance carrier or carriers which the agent is then licensed to represent and shall be accompanied by a certificate from each insurance carrier to be named in each additional appointment that said insurance carrier desires to appoint the applicant as its agent. This notice shall also contain such other information as the State Board of Insurance may require. The agent or company shall be required to pay a nonrefundable fee in an amount not to exceed \$16 as determined by the State Board of Insurance for each additional appointment applied for, which fee shall accompany the notice. All fees collected pursuant to this

section shall be deposited in the State Treasury to the credit of the State Board of Insurance operating fund to be used to administer the provisions of this article and Article 21.07-1, Insurance Code, as amended.

SECTION 4. Section 7, Article 3.75, Insurance Code, as amended, is amended by adding Subsection (f) to read as follows:

Duplicate License; Fee

(f) The Commissioner of Insurance shall collect in advance from agents requesting duplicate licenses a fee not to exceed \$20. The State Board of Insurance shall determine the amount of the fee.

SECTION 5. Section A, Article 9.36, Insurance Code, as amended, is amended to read as follows:

A. Before an initial license is issued to any person, firm, association or corporation to act as an agent within the State of Texas for any title insurance company, there shall first be filed by the title insurance company with the Board an application for agent's license, on forms to be provided by the Board, accompanied by a nonrefundable license fee in an amount not to exceed Fifty Dollars (\$50) as determined by the Board, which fee including license renewal fees shall be deposited in the state treasury to the credit of the State Board of Insurance to enforce the provision of this article and all laws of this state governing and regulating title agents for such insurance companies. ~~[On initial application if an applicant fails to qualify for, or is refused a license, the license fee shall be refunded.]~~ The application shall be signed and duly sworn to by the title insurance company and the proposed agent. Such application shall contain the following:

(1) That the proposed agent, if an individual, is a bona fide resident of Texas; or if a firm or association that it is composed wholly of Texas residents; or if a corporation, that it is a Texas corporation or a foreign corporation which has been authorized to do business in Texas; and

(2) That the proposed agent (and if a corporation, its managerial personnel) has reasonable experience or instruction in the field of title insurance; and

(3) That the proposed agent is known to the title insurance company to have a good business reputation and is worthy of the public trust and said title insurance company knows of no fact or condition which would disqualify him from receiving a license; and

(4) That the proposed agent qualified as a title insurance agent as defined in this Act.

The Board shall grant such license if it determines from the application and its own investigation that the foregoing requirements have been met.

The Commissioner of Insurance shall collect in advance from agents requesting duplicate licenses a fee not to exceed \$20. The State Board of Insurance shall determine the amount of the fee.

SECTION 6. Section A, Article 9.43, Insurance Code, as amended, is amended to read as follows:

A. Before an initial license is issued to any person to act as escrow officer within the State of Texas for any title insurance agent, there shall be first filed by such title insurance agent with the Board an application for an escrow officer's license on forms provided by the Board, accompanied by a nonrefundable license fee in an amount not to exceed Fifty Dollars (\$50) as determined by the Board, which fees including license renewal fees under Article 9.42 shall be deposited in the state treasury to the credit of the State Board of Insurance to enforce the provisions of this article and all laws of this state governing and regulating escrow officers for such title insurance agents. ~~[In the event an applicant fails to qualify for, or is refused a license, the license fee shall be refunded.]~~ The application shall be signed and duly sworn to by such title insurance agent and by the proposed escrow officer.

SECTION 7. Article 9.43, Insurance Code, as amended, is amended by designating a paragraph of Section B as Section C and adding Section D to read as follows:

B. Such application shall contain the following:

(1) that the proposed escrow officer is a natural person and a bona fide resident of the State of Texas;

(2) that the proposed escrow officer has reasonable experience or instruction in the field of title insurance;

(3) that the proposed escrow officer is known to the agent to have a good business reputation and is worthy of the public trust and the agent knows of no fact or condition which would disqualify him from receiving a license;

(4) that the proposed escrow officer qualifies as an escrow officer as defined in this Act.

C. The Board shall grant such license, if it determines from the application and its own investigation that the foregoing requirements have been met.

D. The Commissioner of Insurance shall collect in advance from agents requesting duplicate licenses a fee not to exceed \$20. The State Board of Insurance shall determine the amount of the fee.

SECTION 8. Section 6(a), Article 9.56, Insurance Code, as amended, is amended to read as follows:

Sec. 6. (a) Before an initial license is issued to any Texas licensed attorney to act as a title attorney within the State of Texas for an attorney's title insurance company, there shall first be filed by the attorney's title insurance company with the board an application for a title attorney's license, on forms to be provided by the board, accompanied by a nonrefundable fee in an amount not to exceed \$50 as determined by the board. The application shall be signed and duly sworn to by the attorney's title insurance company and the applicant title attorney. Such application shall contain the following:

(1) that the applicant title attorney is a bona fide licensed Texas attorney, resident of Texas; and

(2) that the applicant title attorney is actively engaged in the practice of law; and

(3) that the applicant title attorney is known to the attorney's title insurance company to have a good business reputation, to be a current member of the State Bar of Texas, in good standing, and is worthy of the public trust and said attorney's title insurance company knows of no fact or condition which would disqualify him from receiving a license; and

(4) that the applicant title attorney is qualified as defined in this Article 9.56 of this Chapter 9.

The board shall grant such title attorney's license if it determines from the application and its own investigation that the foregoing requirements have been met.

The Commissioner of Insurance shall collect in advance from such licensees requesting duplicate licenses a fee not to exceed \$20. The State Board of Insurance shall determine the amount of the fee.

SECTION 9. Paragraph (b), Article 20A.15, Insurance Code, as amended, is amended to read as follows:

(b) The Commissioner of Insurance shall collect in advance from health maintenance organization agent applicants a nonrefundable license fee in an amount not to exceed \$50 as determined by the board [and]. Unless the State Board of Insurance excepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, the Commissioner of Insurance shall also collect from such applicants an examination fee in an amount not to exceed \$20 as determined by the board. A new examination fee shall

be paid for each examination. The examination fee shall not be returned under any circumstances other than for failure to appear and take the examination after the applicant has given at least 24 hours notice of an emergency situation to the Commissioner of Insurance and received the commissioner's approval.

SECTION 10. Section (d), Article 20A.15, Insurance Code, as amended, is amended to read as follows:

(d) Licenses which have not expired or been suspended or revoked may be renewed [upon written request and payment by the agent of a renewal fee] by filing with the State Board of Insurance a renewal application and by paying a renewal fee in an amount not to exceed \$50 as determined by the board [:] on or before the expiration of the license.

SECTION 11. Section (e), Article 20A.15, Insurance Code, as amended, is amended to read as follows:

(e) Any agent licensed under this section may represent and act as an agent for more than one health maintenance organization at any time while the agent's license is in force. Any such agent and the health maintenance organization involved must give notice to the State Board of Insurance of any additional appointment or appointments authorizing the agent to act as agent for an additional health maintenance organization or health maintenance organizations. Such notice must set forth the health maintenance organization or health maintenance organizations which the agent is then licensed to represent and shall be accompanied by a certificate from each health maintenance organization to be named in each additional appointment that said health maintenance organization desires to appoint the applicant as its agent. This notice shall contain such other information as the State Board of Insurance may require. The agent shall be required to pay a nonrefundable fee in an amount not to exceed \$16 as determined by the board for each additional appointment applied for, which fee shall accompany the notice.

SECTION 12. Subsection (j), Article 20A.15, Insurance Code, as amended, is amended to read as follows:

(j) Unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, not [Not] later than the 30th day after the day on which a licensing examination is administered under this section, the commissioner shall send notice to each examinee of the results of the examination. If an examination is graded or reviewed by a [national] testing service, the commissioner shall send, or require the testing service to send, notice to the examinees of the results of the examination within two weeks after the date on which the commissioner receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the commissioner shall send, or require the testing service to send, notice to the examinee of the reason for the delay before the 90th day. If requested in writing by a person who fails the licensing examination administered under this section, the commissioner shall send, or require the testing service to send, to the person an analysis of the person's performance on the examination.

SECTION 13. Article 20A.15, Insurance Code, as amended, is amended by adding Section (m) to read as follows:

Duplicate License; Fee

(m) The Commissioner of Insurance shall collect in advance from agents requesting duplicate licenses a fee not to exceed \$20. The State Board of Insurance shall determine the amount of the fee.

SECTION 14. Section 2(b), Article 21.07, Insurance Code, as amended, is amended to read as follows:

(b) The Board shall issue a license to a corporation if the Board finds:

(1) That the corporation is a Texas corporation organized or existing under the Texas Business Corporation Act having its principal place of business in the State of Texas and having as one of its purposes the authority to act as an agent covered by this Article;

(2) That every officer, director, and shareholder of the corporation is individually licensed under the provisions of this Article; and

(3) That such corporation will have the ability to pay any sums up to \$25,000 which it might become legally obligated to pay on account of any claim made against it by any customer and caused by any negligent act, error, or omission of the corporation or any person for whose acts the corporation is legally liable in the conduct of its business under this Article. The term "customer" means any person, firm, or corporation to whom such corporation sells or attempts to sell a policy of insurance, or from whom such corporation sells or attempts to sell a policy of insurance, or from whom such corporation accepts an application for insurance. Such ability shall be proven in one of the following ways:

(A) an errors and omissions policy insuring such corporation against errors and omissions in at least the sum of \$50,000 with no more than a \$2,500 deductible feature issued by an insurance company licensed to do business in the State of Texas or, if a policy cannot be obtained from a company licensed to do business in Texas, a policy issued by a company not licensed to do business in Texas on filing an affidavit with the State Board of Insurance stating the inability to obtain coverage and receiving the Board's approval;

(B) a bond executed by such corporation as principal and a surety company authorized to do business in this State, as surety, in the principal sum of \$25,000, payable to the State Board of Insurance for the use and benefit of customers of such corporation, conditioned that such corporation shall pay any final judgment recovered against it by any customer; or

(C) a deposit of cash or securities of the class authorized by Articles 2.08 and 2.10, Insurance Code, as amended, having a fair market value of \$25,000 with the State Treasurer. The State Treasurer is directed to accept and receive such deposit and hold it exclusively for the protection of any customer of such corporation recovering a final judgment against such corporation. Such deposit may be withdrawn only upon filing with the Board evidence satisfactory to it that the corporation has withdrawn from business and has no unsecured liabilities outstanding, or that such corporation has provided for the protection of its customers by furnishing an errors and omissions policy or a bond as provided. Securities so deposited may be exchanged from time to time for other qualified securities.

A binding commitment to issue such a policy or bond, or tender of such securities, shall be sufficient in connection with any application for license.

Nothing contained herein shall be construed to permit any unlicensed employee or agent of any corporation to perform any act of an agent under this Article without obtaining a license.

If at any time, any corporation holding an agent's license does not maintain the qualifications necessary to obtain a license, the license of such corporation to act as an agent shall be cancelled or denied in accordance with the provisions of Sections 10 and 11 of this Article; provided, however, that should any person who is not a licensed agent under this Article acquire shares in such a corporation by devise or descent, he shall have a period of 90 days from date of acquisition within which to obtain a license or to dispose of the shares of a person licensed under this Article.

Should such an unlicensed person acquire shares in a corporation and not dispose of them within a period of 90 days to a licensed agent, then they must be purchased by the corporation for their book value, that is, the value of said shares

of stock as reflected by the regular books and records of said corporation, as of the date of the acquisition of said shares by said unlicensed person. Should the corporation fail or refuse to so purchase such shares, its license shall be cancelled.

Any such corporation shall have the power to redeem the shares of any shareholder, or the shares of a deceased shareholder, upon such terms as may be agreed upon by the board of directors and such shareholder or his personal representative, or at a price and upon such terms as may be provided in the articles of incorporation, the bylaws, or an existing contract entered into between the shareholders of the corporation.

Each corporation licensed as an agent under this Article shall file, under oath, a list of the names and addresses of all of its officers, directors, and shareholders with its [yearly] application for renewal license.

Each corporation shall [immediately] notify the State Board of Insurance upon any change in its officers, directors, or shareholders not later than the 30th day after the date on which the change becomes effective.

No other corporation may own any interest in a corporation licensed under this Article, and each owner of an interest in a corporation licensed under this Article shall be a natural person who holds a valid license issued under this Article.

SECTION 15. Article 21.07, Insurance Code, as amended, is amended by adding Section 3B to read as follow:

3B. Persons who reside in a town through which the state line may run and whose residence is located in the town in the adjoining state may be licensed as a resident agent if their business office is being maintained in this state.

SECTION 16. Sections 4 (a) and 4(b), Article 21.07, Insurance Code, as amended, are amended to read as follows:

Sec. 4. (a) Each applicant for a license under the provisions of this Article 21.07, Texas Insurance Code, 1951, as amended, who desires to write health and accident insurance, other than as excepted in Section 3 of this Article 21.07, within this State shall submit to a personal written examination prescribed by the State Board of Insurance and administered in English or Spanish language [~~by the State Board of Insurance~~] to determine his competency with respect to health and accident insurance and his familiarity with pertinent provisions of the laws of the State of Texas relating to health and accident insurance, and shall pass the same to the satisfaction of the State Board of Insurance; except that no written examination shall be required of:

(i) An applicant for the renewal of a license issued by the State Board of Insurance pursuant to Article 21.07, Texas Insurance Code, 1951, as amended, which is currently in force at the effective date of this Act;

(ii) An applicant whose license expired less than one year prior to the date of application may, in the discretion of the State Board of Insurance, be issued a license without written examination, provided such prior license granted such applicant the right to sell health and accident insurance; or

(iii) An applicant that is a corporation.

(b)(i) The State Board of Insurance shall, within sixty (60) days from the effective date of this Act, establish reasonable rules and regulations with respect to the scope, type and conduct of such written examination and the times and places within this State where such examinations shall be held. [~~applicants, shall however, be permitted to take such examinations at least once in each week at the office of the State Board of Insurance.~~] The rules and regulations of the State Board of Insurance shall designate text books, manuals and other materials to be studied by applicants in preparation for examination pursuant to this Section. Such text books, manuals and other materials may consist of matter available to applicants by purchase from the publisher or may consist of matter prepared at the direction of the State Board of Insurance and distributed to applicants upon request therefor and

payment of the reasonable cost thereof. All examination questions shall be prepared from the contents of the text books, manuals and other materials designated or prepared by the State Board of Insurance pursuant to this Section and such questions shall be limited to and substantially similar to the questions relating to health and accident insurance contained in the written examination prescribed by the State Board of Insurance pursuant to Article 21.07-1 of this Insurance Code. Unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, the [The] State Board of Insurance shall charge each applicant a fee in an amount not to exceed \$20 as determined by the State Board of Insurance for the privilege of taking such written examination and which fee shall not be returned under any circumstances other than for failure to appear and take the examination after the applicant has given at least 24 hours' notice of an emergency situation to the State Board of Insurance and received board approval. A new examination fee shall be paid for each and every examination.

(ii) The State Board of Insurance may also establish reasonable rules and regulations whereby, in the discretion of the State Board of Insurance, any insurance carrier may be permitted to conduct written examinations for its agents who have received temporary licenses by appointment of such carrier, subject to such reasonable conditions, requirements and standards as the State Board of Insurance shall require and establish as a predicate for the granting of such authority and for the reasonable supervision, examination and inspection of each such carrier's procedures in giving examinations to its temporary licensees, but provided further that such authority so granted to any insurance carrier to give such examinations may be terminated by the State Board of Insurance on notice and hearing if it shall find that such authorized insurance carrier shall have violated the conditions, requirements and standards required of such carrier to qualify to conduct written examinations.

SECTION 17. Section 4(f), Article 21.07, Insurance Code, as amended is amended to read as follows:

(f) Unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, not [Not] later than the 30th day on which a licensing examination is administered under this article, the commissioner of insurance shall send notice to each examinee of the results of the examination. If an examination is graded or reviewed by a [national] testing service, the commissioner of insurance shall send, or require the testing service to send, notice to the examinees of the results of the examination within two weeks after the date on which the commissioner of insurance receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the commissioner of insurance shall send, or require the testing service to send, notice to the examinee of the reasons for the delay before the 90th day. If requested in writing by a person who fails the licensing examination administered under this article, the commissioner of insurance shall send, or require the testing service to send, to the person an analysis of the person's performance on the examination.

SECTION 18. Section 4A(a), Article 21.07, Insurance Code, as amended, is amended to read as follows:

Sec. 4A. (a) Each applicant for a license under the provision of this Article 21.07, Insurance Code, as amended, who desires to write life insurance in excess of Five Thousand Dollars (\$5,000.00) upon any one life, other than as excepted in Section 3 of this Article 21.07, within this state shall submit to a personal written examination prescribed by the State Board of Insurance and administered in the English or Spanish language ~~[by the State Board of Insurance]~~ to determine his

competency with respect to life insurance and his familiarity with the pertinent provisions of the laws of the State of Texas relating to life insurance and shall pass the same to the satisfaction of the State Board of Insurance; except that no written examination shall be required of an applicant that is a corporation.

SECTION 19. Section 4A(b), Article 21.07, Insurance Code, as amended, is amended to read as follows:

(b)(i) The State Board of Insurance shall, within sixty (60) days from the effective date of this Act, establish reasonable rules and regulations with respect to the scope, type and conduct of such written examination and the times and places within this State where such examinations shall be held. ~~[- applicants shall, however, be permitted to take such examinations at least once in each week at the office of the State Board of Insurance.]~~ The rules and regulations of the State Board of Insurance shall designate textbooks, manuals and other materials to be studied by applicants in preparation for examination pursuant to this Section. Such textbooks, manuals and other materials may consist of matter available to applicants by purchase from the publisher or may consist of matter prepared at the direction of the State Board of Insurance and distributed to applicants upon request therefor and payment of the reasonable cost thereof. All examination questions shall be prepared from the contents of the textbooks, manuals and other materials designated or prepared by the State Board of Insurance pursuant to this Section. Unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, the ~~[The]~~ State Board of Insurance shall charge each applicant a fee in an amount not to exceed \$20.00 for the privilege of taking such written examination and which fee shall not be returned under any circumstances other than for failure to appear and take the examination after the applicant has given at least 24 hours' notice of an emergency situation to the State Board of Insurance and received board approval. A new examination fee shall be paid for each and every examination.

(ii) The State Board of Insurance may also establish reasonable rules and regulations whereby, in the discretion of the State Board of Insurance, any insurance carrier may be permitted to conduct written examinations for its agents, subject to such reasonable conditions, requirements and standards as the State Board of Insurance shall require and establish as a predicate for the granting of such authority and for the reasonable supervision, examination and inspection of each such carrier's procedures in giving examinations to its agents, but provided further that such authority so granted to any insurance carrier to give such examinations may be terminated by the State Board of Insurance on notice and hearing if it shall find that such authorized insurance carrier shall have violated the conditions, requirements and standards required of such carrier to qualify to conduct written examinations.

SECTION 20. Section 5, Article 21.07, Insurance Code, is amended to read as follows:

Sec. 5. **FAILURE OF APPLICANT TO QUALIFY FOR LICENSE.** If the State Board of Insurance is not satisfied that the applicant for a license is trustworthy and of good character, or, if applicable, that the applicant, if required to do so, has not passed the written examination to the satisfaction of the State Board of Insurance, the State Board of Insurance shall forthwith notify the applicant and the insurance carrier in writing that the license will not be issued to the applicant ~~[- and return to said agent the fee for the application for license and the fee for appointment].~~

SECTION 21. Section 6, Article 21.07, Insurance Code, as amended, is amended to read as follows:

Sec. 6. Any agent licensed under this Article may represent and act as an agent for more than one insurance carrier at any time while his or its license is in

force, if he or it so desires. Any such agent and the insurance carrier involved must give notice to the State Board of Insurance of any additional appointment or appointments authorizing him or it to act as agent for an additional insurance carrier or carriers. Such notice must set forth the insurance carrier or carriers which the agent is then licensed to represent, and shall be accompanied by a certificate from each insurance carrier to be named in each additional appointment, that said insurance company desires to appoint the applicant as its agent. This notice shall also contain such other information as the State Board of Insurance may require. The agent shall be required to pay a nonrefundable fee in an amount not to exceed \$16 as determined by the State Board of Insurance for each additional appointment applied for, which fee shall accompany the notice.

SECTION 22. Section 7(b), Article 21.07, Insurance Code, as amended, is amended to read as follows:

(b) Licenses which have not expired or which have not been suspended or revoked may be renewed ~~{upon request in writing of the agent.}~~ by filing with the State Board of Insurance a renewal application and paying the renewal fee set by the board, on or before the expiration of the license.

SECTION 23. Section 7(e), Article 21.07, Insurance Code, as amended, is amended to read as follows:

(e) ~~[An unexpired license may be renewed by paying the required renewal fee to the State Board of Insurance before the expiration date of the license.]~~ If a license has been expired for not longer than 90 days, the license may be renewed by ~~[paying to]~~ filing with the State Board of Insurance the required renewal application and paying the renewal fee set by the board, and a fee that is one-half of the original license fee. If a license has been expired for longer than 90 days but less than two years, the license may be renewed by ~~[paying to]~~ filing with the State Board of Insurance the renewal application and paying all unpaid renewal fees and a fee that is equal to the original license fee. If a license has been expired for two years or longer, the license may not be renewed. A new license may be obtained by complying with the requirements and procedures for obtaining an original license. At least 30 days before the expiration of a license, the commissioner of insurance shall send written notice of the impending license expiration to the licensee at his or its last known address. This subsection may not be construed to prevent the board from denying or refusing to renew a license under applicable law or rules of the State Board of Insurance.

SECTION 24. Section 10(b), Article 21.07, Insurance Code, as amended, is amended to read as follows:

(b) Before any license shall be denied (except for failure to pass a required written examination), ~~[or suspended or revoked, or the renewal thereof refused hereunder,]~~ the Board shall give notice ~~[of its intention so to do, by registered mail,]~~ to the applicant ~~for~~ to ~~[or holder of,]~~ such license and the insurance carrier ~~[whom he or it represents or]~~ who desires that he or it be licensed, ~~and~~. Before any license shall be suspended or revoked, or the renewal thereof refused hereunder, the Board shall give notice to the holder of such license and to any insurance carrier with whom the agent holds an appointment and whose business is directly involved in the subject matter of any allegations of wrongdoing leveled against such agent. The Board shall set a date not less than twenty days from the date of mailing such notice when the applicant or licensee and a duly authorized representative of the insurance carrier may appear to be heard and produce evidence. In the conduct of such hearing, the Board or any regular salaried employee specially designated by it for such purpose shall have power to administer oaths, to require the appearance of and examine any person under oath, and to require the production of books, records or papers relevant to the inquiry upon its own initiative or upon the request of the applicant or licensee. Upon termination of such hearings, findings shall be reduced

to writing and, upon approval by the Board, shall be filed in its office and notice of the findings sent by registered mail to the applicant or licensee and ~~[the] any insurance carrier [concerned]-that has notified the Board that it desires that such applicant be licensed or that it has appointed such agent.~~

SECTION 25. Section 14(a), Article 21.07, Insurance Code, as amended, is amended to read as follows:

Sec. 14. (a) It shall be the duty of the State Board of Insurance to collect from every agent of any insurance carrier writing insurance in the State of Texas under the provisions of this Article, a nonrefundable licensing fee and ~~[an]~~ a nonrefundable initial appointment fee, as provided in Subsection (b) of this section, for each and every appointment by any insurance carrier, which fees together with examination fees and renewal license fees shall be deposited in the State Treasury to the credit of the State Board of Insurance operating fund and shall be used by the State Board of Insurance to enforce the provisions of this Article and all laws of this State governing and regulating agents for such insurance carriers.

SECTION 26. Section 19(b), Article 21.07, Insurance Code, as amended, is amended to read as follows:

(b) The State Board of Insurance may, upon request of such insurer on application forms furnished by the State Board of Insurance and upon payment of a nonrefundable license fee in an amount not to exceed \$50 as determined by the State Board of Insurance, issue such license to such person which will be valid only for such limited representation of such insurer as provided herein. The application shall be accompanied by a certificate, on forms to be prescribed and furnished by the State Board of Insurance and signed by an officer or properly authorized representative of the insurance company the applicant proposes to represent, stating that the insurance company has investigated the character and background of the applicant and is satisfied that the applicant is trustworthy and qualified to hold himself out in good faith as an insurance agent, and that the insurance company desires that the applicant act as an insurance agent to represent the insurance company. The insurer shall also certify to the State Board of Insurance that it has provided the applicant with at least forty (40) hours of training, has tested the applicant and found the applicant qualified to represent the insurer, and that the insurer is willing to be bound by the acts of such applicant within the scope of such limited representation.

SECTION 27. Article 21.07, Insurance Code, as amended, is amended by adding Section 20 to read as follows:

Duplicate License; Fee

Sec. 20. The Commissioner of Insurance shall collect in advance from agents requesting duplicate licenses a fee not to exceed \$20. The State Board of Insurance shall determine the amount of the fee.

SECTION 28. Section 4(a), Article 21.07-1, Insurance Code, as amended, is amended to read as follows:

Sec. 4. (a) Each applicant for a license to act as a life insurance agent within this State shall file with the Insurance Commissioner his or its written application on forms furnished by the Commissioner. The application shall be signed and duly sworn by the applicant. The prescribed form shall require the applicant to state his full name; residence; age; occupation and place of business for five years preceding date of the application; whether applicant has ever held a license to solicit life, or any other insurance in any State; whether he has been refused, or has had suspended or revoked a license to solicit life, or any other insurance in any State; what insurance experience, if any, he has had; what instruction in life insurance and in the insurance laws of this State he has had or expects to have; whether any insurer or general agent claims applicant is indebted under any agency contract, and if so, the name of the claimant, the nature of the claim and the applicant's defense

thereto; whether applicant has had an agency contract cancelled and, if so, when, by what company or general agent and the reasons therefor; whether applicant will devote all or part of his efforts to acting as a life insurance agent, and, if part only, how much time he will devote to such work, and in what other business or businesses he is engaged or employed; whether, if the applicant is [a] married [woman], [her] the applicant's [husband] spouse has ever applied for or held a license to solicit life, or any other insurance in any State and whether such license has been refused, suspended, or revoked; and such other information pertinent to the licensing of such agent as the Insurance Commissioner in his discretion may prescribe. It is not intended that the Insurance Commissioner shall be authorized to deny a license to an applicant on the sole ground that he will act only part time as a life insurance agent.

SECTION 29. Section 4(c), Article 21.07-1, Insurance Code, as amended, is amended to read as follows:

(c) The application, when filed, shall be accompanied by a nonrefundable filing fee in an amount not to exceed \$50 as determined by the State Board of Insurance and, in the case of applicants required to take an examination administered by the Commissioner of Insurance as hereafter prescribed, unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, by an examination fee in an amount not to exceed \$20 as determined by the State Board of Insurance. ~~[In the event an applicant fails to qualify for, or is refused a license, the filing fee shall be returned; the]~~ The examination fee shall not be returned for any reason other than for failure to appear and take the examination after the applicant has given at least 24 hours' notice of an emergency situation to the Commissioner of Insurance and received the commissioner's approval. A new examination fee shall be paid for each and every examination.

SECTION 30. Subsection 3, Section 4(d), Article 21.07-1, Insurance Code, is amended to read as follows:

(3) That such corporation will have the ability to pay any sums up to \$25,000.00 which it might become legally obligated to pay on account of any claim made against it by any customer and caused by any negligent act, error, or omission of the corporation or any person for whose acts the corporation is legally liable in the conduct of its business as under this Act. The term "customer" as used herein shall mean any person, firm, or corporation to whom such corporation sells or attempts to sell a policy of insurance or from whom such corporation accepts an application for insurance. Such ability shall be proven in one of the following ways:

(A) An errors and omissions policy insuring such corporation against errors and omissions in at least the sum of \$50,000.00, with no more than a \$2,500.00 deductible feature issued by an insurance company licensed to do business in the State of Texas or, if a policy cannot be obtained from a company licensed to do business in Texas, a policy issued by a company not licensed to do business in Texas on filing an affidavit with the State Board of Insurance stating the inability to obtain coverage and receiving the Board's approval; or

(B) A bond executed by such corporation as principal and a surety company authorized to do business in this State, as surety, in the principal sum of \$25,000.00, payable to the State Board of Insurance for the use and benefit of customers of such corporation, conditioned that such corporation shall pay any final judgment recovered against it by any customer; or

(C) A deposit of cash or securities of the class authorized by Articles 2.08 and 2.10 of the Insurance Code, having a fair market value of \$25,000.00 with the State Treasurer. The State Treasurer is hereby authorized and directed to accept and receive such deposit and hold it exclusively for the protection of any customer of such corporation recovering a final judgment against such corporation. Such deposit

may be withdrawn only upon filing with the Insurance Commissioner evidence satisfactory to it that the corporation has withdrawn from business and has no unsecured liabilities outstanding, or that such corporation has provided for the protection of its customers by furnishing an errors and omissions policy or a bond as hereinbefore provided. Securities so deposited may be exchanged from time to time for other qualified securities.

A binding commitment to issue such a policy or bond, or the tender of such securities, shall be sufficient in connection with any application for license.

Nothing contained herein shall be construed to permit any unlicensed employee or agent of any corporation to perform any act of an agent under this Act without obtaining a license.

If at any time, any corporation holding a license under this Act does not maintain the qualifications necessary to obtain a license, the license of such corporation to act as an agent shall be cancelled or denied in accordance with the provisions of Sections 12, and 13 of this Act; provided, however, that should any person who is not an agent licensed under this Act acquire shares in such a corporation by devise or descent, they shall have a period of 90 days from date of acquisition within which to obtain a license as an agent or to dispose of the shares to an agent licensed under this Act.

Should such an unlicensed person acquire shares in such a corporation and not dispose of them within said period of 90 days to a licensed agent, then they must be purchased by the corporation for their book value, that is, the value of said shares of stock as reflected by the regular books and records of said corporation as of the date of the acquisition of said shares by said unlicensed person. Should the corporation fail or refuse to so purchase such shares, its license shall be cancelled.

Any such corporation shall have the power to redeem the shares of any shareholder, or the shares of a deceased shareholder, upon such terms as may be agreed upon by the board of directors and such shareholder or his personal representative, or at such price and upon such terms as may be provided in the articles of incorporation, the bylaws, or an existing contract entered into between the shareholders of the corporation.

Each corporation licensed as an agent under this Act shall file, under oath, a list of the names and addresses of all of its officers, directors and shareholders with its [yearly] application for renewal license.

Each corporation licensed as an agent under this Act shall [immediately] notify the State Board of Insurance upon any change in its officers, directors, or shareholders not later than the 30th day after the date on which the change became effective.

No other corporation may own any interest in a corporation licensed under this Act, and each owner of an interest in a corporation licensed under this Act shall be a natural person who holds a valid license issued under this Act.

No association, partnership, or any legal entity of any nature, other than an individual person or corporation, may be licensed as a life insurance agent.

SECTION 31. Section 5(b), Article 21.07-1, Insurance Code, as amended, is amended to read as follows:

(b) The Commissioner shall establish rules and regulations with respect to the scope, type and conduct of such written examinations and the times and places within this State where they shall be held. ~~[; provided, that applicants shall be permitted to take such examinations (at least once in each week at the office of the Commissioner,) and at least once in each month in the county court house of the residence of the applicant.]~~ The rules and regulations of the Commissioner shall designate text books, manuals and other materials to be studied by applicants in preparation for examinations pursuant to this Section. Such text books, manuals or other materials may consist of matter available to applicants by purchase from

the publisher or may consist of matter prepared at the direction of the Commissioner and distributed to applicants upon request therefor and payment of the reasonable cost thereof. All examination questions shall be prepared from the contents of the text books, manuals and other materials designated or prepared by the Commissioner pursuant to this Section.

SECTION 32. Subdivision 4, Section 5(d), Article 21.07-1, Insurance Code, as amended, is amended to read as follows:

(4) It shall be the duty of the Commissioner to investigate the manner and method of instruction and examination of each combination and industrial insurer as often as deemed necessary by the Commissioner and the Commissioner may, in his discretion, withdraw from any insurer the privilege of examining agents in lieu of the examination [administered by the Commissioner pursuant to] prescribed in Sub-section (a) of this Section 5.

SECTION 33. Section 5(e), Article 21.07-1, Insurance Code, as amended, is amended to read as follows:

(e) Unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, not [Not] later than the 30th day after the day on which a licensing examination is administered under this article, the commissioner of insurance shall send notice to each examinee of the results of the examination. If an examination is graded or reviewed by a [national] testing service, the commissioner of insurance shall send, or require the testing service to send, notice to the examinees of the results of the examination within two weeks after the date on which the commissioner of insurance receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the commissioner of insurance shall send, or require the testing service to send, notice to the examinee of the reason for the delay before the 90th day. If requested in writing by a person who fails the licensing examination administered under this Act, the commissioner of insurance shall send, or require the testing service to send, to the person an analysis of the person's performance on the examination.

SECTION 34. Section 6(a), Article 21.07-1, Insurance Code, as amended, is amended to read as follows:

Issuance or Denial of License

Sec. 6. ~~[(a)]~~ If the ~~[Life Insurance]~~ Commissioner is satisfied that the applicant is trustworthy and competent and after the applicant, if required to do so, has passed the written examination to the satisfaction of the Commissioner, a license shall be issued forthwith. If the ~~[applicant has not passed the written examination, or if]~~ license is denied for any of the reasons set forth in Section 12 of this Act, the ~~[Life Insurance]~~ Commissioner shall notify the applicant and the insurer in writing that the license will not be issued to the applicant.

SECTION 35. Section 7, Article 21.07-1, Insurance Code, as amended, is amended by adding Subsection (c) to read as follows:

(c) Persons who reside in a town through which the state line may run and whose residence is located in the town in the adjoining state may be licensed as a resident agent if their business office is being maintained in this state.

SECTION 36. Section 8(a), Article 21.07-1, Insurance Code, as amended, is amended to read as follows:

Sec. 8. (a) Any life insurance agent licensed in this state may represent and act as a life insurance agent for more than one legal reserve life insurance company at any time while his or its license is in force, if he or it so desires. Any such life insurance agent and the company involved must give notice to the Commissioner of Insurance of any additional appointment or appointments authorizing him or it to act as a life insurance agent for an additional legal reserve life insurance company

or companies. Such notice must set forth the insurer or insurers which the agent is then licensed to represent, and shall be accompanied by a certificate from each insurer to be named in each additional appointment; that said insurer desires to appoint the applicant as its agent. This notice shall also contain such other information as the Commissioner may require. The agent shall be required to pay a nonrefundable fee in an amount not to exceed \$16 as determined by the State Board of Insurance for each additional appointment applied for, which fee shall accompany the notice. Any insurer may file a request with the Insurance Commissioner for notification in the event any agent licensed to represent such insurer has given the Commissioner of Insurance notice of an additional appointment to represent another insurer; and in such event the Commissioner shall notify the insurer filing such request.

SECTION 37. Section 9(b), Article 21.07-1, Insurance Code, as amended, is amended to read as follows:

(b) Licenses which have not expired or which have not been suspended or revoked may be renewed [upon request in writing of the agent.] by filing with the board a renewal application and paying the renewal fee set by the board on or before the expiration of the license.

SECTION 38. Section 9(f), Article 21.07-1, Insurance Code, as amended, is amended to read as follows:

(f) [An unexpired license may be renewed by paying the required renewal fee to the State Board of Insurance before the expiration date of the license.] If a license has been expired for not longer than 90 days, the license may be renewed by [paying to] filing with the State Board of Insurance the required renewal application and fee, and a fee that is one-half of the original license fee. If a license has been expired for longer than 90 days but less than two years, the license may be renewed by [paying to] filing with the State Board of Insurance the renewal application and all unpaid renewal fees and a fee that is equal to the original license fee. If a license has been expired for two years or longer, the license may not be renewed. A new license may be obtained by complying with the requirements and procedures for obtaining an original license. At least 30 days before the expiration of a license, the commissioner of insurance shall send written notice of the impending license expiration to the licensee at his or its last known address. This subsection may not be construed to prevent the board from denying or refusing to renew a license under applicable law or rules of the State Board of Insurance.

SECTION 39. Section 12(b), Article 21.07-1, Insurance Code, as amended, is amended to read as follows:

(b) Before any license shall be denied (except for failure to pass a required written examination), [or suspended or revoked, or the renewal thereof refused hereunder,] the [Insurance Commissioner] Board shall give notice [of his intention so to do, by registered mail,] to the applicant for [or holder of] such license and the insurer [whom he or it represents or] who desires that he or it be licensed [and]. Before any license shall be suspended or revoked, or the renewal thereof refused hereunder, the Board shall give notice to the holder of such license and to any insurance carrier with whom the agent holds an appointment and whose business is directly involved in the subject matter of any allegations of wrongdoing leveled against such agent. The Board shall set a date not less than twenty days from the date of mailing such notice when the applicant or licensee and a duly authorized representative of the insurance carrier may appear to be heard and produce evidence. In the conduct of such hearing, the Commissioner or any regular salaried employee specially designated by him for such purpose shall have power to administer oaths, to require the appearance of and examine any person under oath, and to require the production of books, records or papers relevant to the inquiry upon his own initiative or upon the request of the applicant or licensee. Upon

termination of such hearings, findings shall be reduced to writing and, upon approval by the Commissioner, shall be filed in his office and notice of the findings sent by registered mail to the applicant or licensee and ~~[the insurer]~~ any insurance carrier that has notified the Board that it desires that such applicant be licensed or that it has appointed such agent [concerned].

SECTION 40. Section 16(c), Article 21.07-1, Insurance Code, as amended, is amended to read as follows:

(c) Each applicant for a license under this section who desires to act as an accident and health insurance agent within this state shall submit to a personal written examination prescribed by the State Board of Insurance and administered in the English or Spanish language ~~[by the State Board of Insurance]~~ to determine the applicant's competency with respect to accident and health insurance and familiarity with the pertinent provisions of the health and accident insurance laws of this state. Except as provided by Subsection (d) of this section, each applicant must pass the examination to the satisfaction of the State Board of Insurance.

SECTION 41. Section 16(e), Article 21.07-1, Insurance Code, as amended, is amended to read as follows:

(e) Within 60 days after the effective date of this section the State Board of Insurance shall establish reasonable rules relating to the scope, type, and conduct of the written examination to be required of an applicant hereunder and the times and the places in this state where examinations will be held. ~~[Applicants also may take the examinations at least once in each week at the office of the State Board of Insurance.]~~

SECTION 42. Section 16(g), Article 21.07-1, Insurance Code, as amended, is amended to read as follows:

(g) Unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, the [The] State Board of Insurance shall charge each applicant a fee not to exceed \$25 for the privilege of taking the written examination, and the fee may not be returned under any circumstance other than for failure to appear and take the examination after the applicant has given at least 24 hours' notice of an emergency situation to the State Board of Insurance and received approval of such failure to appear. A new examination fee shall be paid for each subsequent examination.

SECTION 43. Section 16(h), Article 21.07-1, Insurance Code, as amended, is amended to read as follows:

(h) After the State Board of Insurance determines that an applicant has successfully passed the written examination or is exempt therefrom as provided in Subsection (d) above, and the board has determined the applicant to be of good character and reputation, has been appointed to act as an agent by one or more legal reserve life insurance companies, and has paid a nonrefundable license fee not to exceed \$50 as determined by the board [of \$25], the board shall issue a license to such applicant authorizing the applicant to act as an accident and health insurance agent for the appointing insurance carrier.

SECTION 44. Article 21.07-1, Insurance Code, as amended, is amended by adding Section 17 to read as follows:

Duplicate License; Fee

Sec. 17. The Commissioner of Insurance shall collect in advance from agents requesting duplicate licenses a fee not to exceed \$20. The State Board of Insurance shall determine the amount of the fee.

SECTION 45. Section 5, Article, 21.07-2, Insurance Code, as amended, is amended to read as follows:

Sec. 5. The licensing and regulation of a Life Insurance Counselor, as that term is defined herein, shall be in the same manner and subject to the same

requirements as applicable to the licensing of agents of legal reserve life insurance companies as provided in Article 21.07-1 of the Texas Insurance Code, 1951, or as provided by any existing or subsequent applicable law governing the licensing of such agents, and all the provisions thereof are hereby made applicable to applicants and licensees under this Act, except that a Life Insurance Counselor shall not advertise in any manner and shall not circulate materials indicating professional superiority or the performance of professional service in a superior manner; provided, however, that an appointment to act for an insurer shall not be a condition to the licensing of a Life Insurance Counselor.

In addition to the above requirements, the applicant for licensure as a Life Insurance Counselor shall submit to the Commissioner evidence of high moral and ethical character, documentation that he has been licensed as a life insurance agent in excess of three years. After the Insurance Commissioner has satisfied himself as to these requirements, he shall then cause the applicant for a Life Insurance Counselor's license to sit for an examination which shall include the following:

Such examination shall consist of five subjects areas:

- (a) Fundamentals of life and health insurance;
- (b) Group life insurance, pensions and health insurance;
- (c) Law, trust and taxation;
- (d) Finance and economics; and
- (e) Business insurance and estate planning.

No license shall be granted until such individual shall have successfully passed each of the five parts above enumerated. Such examinations may be given and scheduled by the Commissioner at his discretion. Individuals currently holding Life Insurance Counselor licenses issued by the Texas State Board of Insurance, who do not have the equivalent of the requirements above listed, shall have one year from the date of enactment hereof to so qualify.

Unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, not [Not] later than the 30th day after the day on which a licensing examination is administered under this Section, the Commissioner shall send notice to each examinee of the results of the examination. If an examination is graded or reviewed by a [national] testing service, the Commissioner shall send, or require the testing service to send, notice to the examinees of the results of the examination within two weeks after the date on which the Commissioner receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the Commissioner shall send, or require the testing service to send, notice to the examinee of the reason for the delay before the 90th day. If requested in writing by a person who fails the licensing examination administered under this Section, the Commissioner shall send, or require the testing service to send, to the person an analysis of the person's performance on the examination.

SECTION 46. Section 6, Article 21.07-3, Insurance Code, as amended, is amended to read as follows:

Sec. 6. Each applicant for a license shall submit to, and must pass to the satisfaction of the commissioner, a written examination compiled [and administered] by the commissioner testing applicant's competence with respect to insurance and familiarity with the insurance laws of this state.

SECTION 47. Section 8, Article 21.07-3, Insurance Code, as amended, is amended to read as follows:

Sec. 8(a) Unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, all [All] examinations provided hereunder shall be conducted by the commissioner at such times and places as prescribed by the commissioner,

but not less than four times annually. Applicants shall be given ten days' notice of the time and place of such examinations. All examinations shall be in writing.

(b) Unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, not [Not] later than the 30th day after the day on which a licensing examination is administered under this section, the commissioner shall send notice to each examinee of the results of the examination. If an examination is graded or reviewed by a [national] testing service, the commissioner shall send, or require the testing service to send, notice to the examinees of the results of the examination within two weeks after the date on which the commissioner receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the commissioner shall send, or require the testing service to send, notice to the examinee of the reason for the delay before the 90th day.

(c) If requested in writing by a person who fails the licensing examination administered under this section, the commissioner shall send, or require the testing service to send, to the person an analysis of the person's performance on the examination.

SECTION 48. Section 10, Article 21.07-3, Insurance Code, as amended, is amended to read as follows:

Sec. 10. Any applicant for a managing general agent's license shall pay a nonrefundable fee at the time application is made in an amount not to exceed \$30 as determined by the State Board of Insurance.

Any [application] applicant for the renewal of a managing general agent's license shall pay a nonrefundable fee at the time application is made in an amount not to exceed \$50 as determined by the State Board of Insurance.

The Commissioner of Insurance shall collect in advance from agents requesting duplicate licenses a fee not to exceed \$20. The State Board of Insurance shall determine the amount of the fee.

SECTION 49. Subsection (c), Section 11, Article 21.07-3, Insurance Code, as amended, is amended to read as follows:

(c) Each appointment to act as a managing general agent must be reported to the commissioner on forms required by him. For each additional appointment for which the agent applies, the agent shall be required to pay a nonrefundable fee in an amount not to exceed \$16 as determined by the State Board of Insurance.

SECTION 50. Section 10, Article 21.07-4, Insurance Code, as amended, is amended to read as follows:

Sec. 10. (a) Each applicant for a license as an adjuster shall, prior to the issuance of such license, personally take and pass, to the satisfaction of the commissioner, an examination ~~[given by the commissioner]~~ as a test of his qualifications and competency; but the requirement of an examination shall not apply to any of the following:

(1) an applicant who for the 90-day period next preceding the effective date of this Act has been principally engaged in the investigation, adjustment, or supervision of losses and who is so engaged on the effective date of this Act;

(2) an applicant for the renewal of a license issued hereunder; or

(3) an applicant who is licensed as an insurance adjuster, as defined by this statute, in another state with which state a reciprocal agreement has been entered into by the commissioner;

(4) any person who has completed a course or training program in adjusting of losses as prescribed and approved by the commissioner and is certified to the commissioner upon completion of the course that such person has completed said course or training program, and has passed an examination testing his knowledge and qualification, as prescribed by the commissioner.

(b) Unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, not [Not] later than the 30th day after the day on which a licensing examination is administered under this section, the commissioner shall send notice to each examinee of the results of the examination. If an examination is graded or reviewed by a [national] testing service, the commissioner shall send, or require the testing service to send, notice to the examinees of the results of the examination within two weeks after the date on which the commissioner receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the commissioner shall send, or require the testing service to send, notice to the examinee of the reason for the delay before the 90th day.

(c) If requested in writing by a person who fails the licensing examination administered under this section, the commissioner shall send, or require the testing service to send, to the person an analysis of the person's performance on the examination.

SECTION 51. Section 12(a), Article 21.07-4, Insurance Code, as amended, is amended to read as follows:

Sec. 12. (a) The answers of the applicant to any such examination shall be made in writing [written] by the applicant [under supervision of the commissioner]. Any such written examination may be supplemented by oral examination.

SECTION 52. Section 14(a), Article 21.07-4, Insurance Code, as amended, is amended to read as follows:

Sec. 14. (a) The commissioner shall collect in advance the following nonrefundable fees for an adjuster's license and examination:

(1) Insurance adjuster's license, each year, in an amount not to exceed \$50 as determined by the board.

(2) For each examination, if given by the board, a fee, in an amount not to exceed \$50 as determined by the board.

SECTION 53. Article 21.07-4, Insurance Code, as amended, is amended by adding Section 23 to read as follows:

Duplicate License; Fee

Sec. 23. The Commissioner of Insurance shall collect in advance from adjusters requesting duplicate licenses a fee not to exceed \$20. The State Board of Insurance shall determine the amount of the fee.

SECTION 54. Section 3(c), Article 21.14, Insurance Code, as amended, is amended to read as follows:

(c) The Board shall issue a license to a corporation if the Board finds:

(1) That the corporation is a Texas corporation organized or existing under the Texas Business Corporation Act or the Texas Professional Corporation Act having its principal place of business in the State of Texas and having as one of its purposes the authority to act as a local recording agent; and

(2) That every officer, director and shareholder of the corporation is individually licensed as a local recording agent under the provisions of this Insurance Code, except as may be otherwise permitted by this Section or Section 3a of this article, and that no shareholder of the corporation is a corporate entity; and

(3) That such corporation will have the ability to pay any sums up to Twenty-Five Thousand Dollars (\$25,000.00) which it might become legally obligated to pay on account of any claim made against it by any customer and caused by any negligent act, error or omission of the corporation or any person for whose acts the corporation is legally liable in the conduct of its business as a local recording agent. The term "customer" as used herein shall mean any person, firm or corporation to whom such corporation sells or attempts to sell a policy of

insurance, or from whom such corporation accepts an application for insurance. Such ability shall be proven in one of the following ways:

(a) An errors and omissions policy issued by an insurance company licensed to do business in the State of Texas insuring such corporation against errors and omissions in at least the sum of One-Hundred Thousand Dollars (\$100,000.00), with no more than a Five Thousand Dollars (\$5,000.00) deductible feature; or

(b) A bond executed by such corporation as principal and a surety company authorized to do business in this state, as surety, in the principal sum of Twenty-Five Thousand Dollars (\$25,000.00), payable to the State Board of Insurance for the use and benefit of customers of such corporation, conditioned that such corporation shall pay any final judgment recovered against it by any customer; or

(c) A deposit of cash or securities of the class authorized by Articles 2.08 and 2.10 of this Code, having a fair market value of Twenty-Five Thousand Dollars (\$25,000.00) with the State Treasurer. The State Treasurer is hereby authorized and directed to accept and receive such deposit and hold it exclusively for the protection of any customer of such corporation recovering a final judgment against such corporation. Such deposit may be withdrawn only upon filing with the Board evidence satisfactory to it that the corporation has withdrawn from business, and has no unsecured liabilities outstanding, or that such corporation has provided for the protection of its customers by furnishing an errors and omissions policy or a bond as hereinbefore provided. Securities so deposited may be exchanged from time to time for other qualified securities.

A binding commitment to issue such a policy or bond, or the tender of such securities, shall be sufficient in connection with any application for license.

Nothing contained herein shall be construed to permit any unlicensed employee or agent of any corporation to perform any act of a local recording agent without obtaining a local recording agent's license. The Board shall not require a corporation to take the examination provided in Section 6 of this Article 21.14.

If at any time, any corporation holding a local recording agent's license does not maintain the qualifications necessary to obtain a license, the license of such corporation to act as a local recording agent shall be cancelled or denied in accordance with the provisions of Sections 16, 17 and 18 of this Article 21.14; provided, however, that should any person who is not a licensed local recording agent acquire shares in such a corporation by devise or descent, they shall have a period of ninety (90) days from date of acquisition within which to obtain a license as a local recording agent or to dispose of the shares to a licensed local recording agent except as may be permitted by Section 3a of this article.

Should such an unlicensed person, except as may be permitted by Section 3a of this article, acquire shares in such a corporation and not dispose of them within said period of ninety (90) days to a licensed local recording agent, then they must be purchased by the corporation for their book value, that is, the value of said corporation, as of the date of the acquisition of said shares by said unlicensed person. Should the corporation fail or refuse to so purchase such shares, its license shall be cancelled.

Any such corporation shall have the power to redeem the share of any shareholder, or the shares of a deceased shareholder, upon such terms as may be agreed upon by the Board of Directors and such shareholder or his personal representative, or at such price and upon such terms as may be provided in the Articles of Incorporation, the Bylaws, or an existing contract entered into between the shareholders of the corporation.

Each corporation licensed as a local recording agent shall file, under oath, a list of the names and addresses of all of its officers, directors and shareholders with its [yearly] application for renewal license.

Each corporation licensed as a local recording agent shall [immediately] notify the State Board of Insurance upon any change in its officers, directors or

shareholders not later than the 30th day after the date on which the change became effective.

The term "firm" as it applies to local recording agents in Sections 2, 12 and 16 of this Article 21.14 shall be construed to include corporations.

SECTION 55. Section 7, Article 21.14, Insurance Code, as amended, is amended to read as follows:

Sec. 7. Unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, all [All] examinations provided by this article shall be conducted by the State Board of Insurance, and shall be held not less frequently than one each sixty (60) days every year at times and places prescribed by the State Board of Insurance, of which applicants shall be notified by the State Board of Insurance in writing, ten (10) days prior to the date of such examinations, and shall be conducted in writing in either the English or Spanish language [except that the applicant upon notice to the State Board of Insurance shall be entitled to be examined in the county seat of the county of his residence]. Provided, further, that printed copies of a manual of questions and answers thereto pertaining to the examination published under the direction of the State Board of Insurance shall be made available to all companies, general agents, and managers for the use of their prospective agents, to all agents for the use of their prospective solicitors in preparing for such examination. The questions to be asked on such examination shall be based upon the questions and answers contained in the manual.

SECTION 56. Section 7a, Article 21.14, Insurance Code, as amended, is amended to read as follows:

Sec. 7a. (a) Unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, not [Not] later than the 30th day after the day on which a licensing examination is administered under this article, the commissioner of insurance shall send notice to each examinee of the results of the examination. If an examination is graded or reviewed by a [national] testing service, the commissioner shall send, or require the testing service to send, notice to the examinees of the results of the examination within two weeks after the date on which the commissioner of insurance receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the commissioner shall send, or require the testing service to send, notice to the examinee of the reason for the delay before the 90th day.

(b) If requested in writing by a person who fails the licensing examination administered under this article, the commissioner of insurance shall send, or require the testing service to send, to the person an analysis of the person's performance on the examination.

SECTION 57. Section 9, Article 21.14, Insurance Code, as amended, is amended to read as follows:

Sec. 9. Unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, applicants [Applicants] required to be examined shall, at time and place of examination, pay prior to being examined on the following fees: For a local recording agent's license a fee in an amount not to exceed \$50 as determined by the State Board of Insurance and for a solicitor's license a fee in an amount not to exceed \$20 as determined by the State Board of Insurance. The fees paid under this section shall not be returned for any reason other than failure to appear and take the examination after the applicant has given at least 24 hours' notice of an emergency situation to the State Board of Insurance and received board approval. A new fee shall be paid before each and every examination.

SECTION 58. Section 11, Article 21.14, Insurance Code, as amended, is amended to read as follows:

Sec. 11. ISSUANCE OF LICENSE. (a) Whenever the provisions of this article have been complied with, the Board shall issue to any applicant the license applied for where such applicant shall have satisfactorily passed the examination prescribed [given] by the State Board of Insurance [Commissioners], and who shall possess the other qualifications required by this article.

(b) The Commissioner of Insurance shall collect in advance from agents requesting duplicate licenses a fee not to exceed \$20. The State Board of Insurance shall determine the amount of the fee.

SECTION 59. Section 12(a), Article 21.14, Insurance Code, as amended, is amended to read as follows:

Sec. 12. (a) After a person or firm shall be granted a license as a local recording agent in this state, he shall be authorized to act as such local recording agent in this state, only after and during the time such person or firm has been authorized so to do, by an insurance company or carrier having a permit to do business in this state; and when so authorized each company or carrier or its general or state or special agent making the appointment shall immediately notify the Commissioner of Insurance, on such form as the Commissioner may require, of the appointment. The agent shall be required to pay a nonrefundable fee of \$8.00 for each appointment applied for, which fee shall accompany the notice, and such person or firm shall be presumed to be the agent for such company in this state until such company or its general or state or special agent shall have delivered written notice to the Commissioner of Insurance that such appointment has been withdrawn.

SECTION 60. Paragraph (b), Article 23.23, Insurance Code, as amended, is amended to read as follows:

(b) The Commissioner of Insurance shall collect in advance from agents of corporations complying with this chapter a nonrefundable license fee in an amount not to exceed \$50 as determined by the State Board of Insurance [and]. Unless the State Board of Insurance accepts a qualifying examination administered by a testing service as provided under Article 21.01-1, Insurance Code, as amended, the Commissioner of Insurance shall also collect in advance from such agents an examination fee in an amount not to exceed \$20 as determined by the State Board of Insurance. A new examination fee shall not be returned under any circumstances other than for failure to appear and take the examination after the applicant has given at least 24 hours notice of an emergency situation to the Commissioner of Insurance and received the commissioner's approval.

SECTION 61. Paragraph (d), Article 23.23, Insurance Code, as amended, is amended to read as follows:

(d) Licenses which have not expired or which have not been suspended or revoked may be renewed [upon request in writing of the agent and payment of a renewal fee] by filing with the board on or before the expiration date of the license a renewal application and fee in an amount not to exceed \$50 as determined by the State Board of Insurance.

SECTION 62. Paragraph (e), Article 23.23, Insurance Code, as amended, is amended to read as follows:

(e) Any agent licensed under this article may represent and act as an agent for more than one corporation complying with this chapter at any time while his or its license is in force, if he or it so desires. Any such agent and the corporation complying with this chapter involved must give notice to the State Board of Insurance of any additional appointment or appointments authorizing him or it to act as an agent for an additional corporation complying with this chapter. Such notice must set forth the corporation or corporations complying with this chapter which the agent is then licensed to represent and shall be accompanied by a certificate from each corporation complying with this chapter to be named in each

additional appointment that said corporation desires to appoint the applicant as its agent. This notice shall also contain such other information as the State Board of Insurance may require. The agent shall be required to pay a nonrefundable fee in an amount not to exceed \$16 as determined by the State Board of Insurance for each additional appointment applied for, which fee shall accompany the notice.

SECTION 63. Paragraph (g), Article 23.23, Insurance Code, as amended, is amended to read as follows:

(g) ~~[An unexpired license may be renewed by paying the required renewal fee to the State Board of Insurance before the expiration date of the license.]~~ If a license has been expired for not longer than 90 days, the license may be renewed by ~~[paying to]~~ filing with the State Board of Insurance the required renewal application and fee, and a fee that is one-half of the original license fee. If a license has been expired for longer than 90 days but less than two years, the license may be renewed by ~~[paying to]~~ filing with the State Board of Insurance the renewal application and all unpaid renewal fees and a fee that is equal to the original license fee. If a license has been expired for two years or longer, the license may not be renewed. A new license may be obtained by complying with the requirements and procedures for obtaining an original license. At least 30 days before the expiration of a license, the commissioner of insurance shall send written notice of the impending license expiration to the licensee at his or its last known address. This subsection may not be construed to prevent the board from denying or refusing to renew a license under applicable law or rules of the State Board of Insurance.

SECTION 64. Paragraph (i), Article 23.23, Insurance Code, as amended, is amended to read as follows:

(i) Unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, not [Not] later than the 30th day after the day on which a licensing examination is administered under this article, the commissioner of insurance shall send notice to each examinee of the results of the examination. If an examination is graded or reviewed by a [national] testing service, the commissioner shall send, or require the testing service to send, notice to the examinees of the results of the examination within two weeks after the date on which the commissioner of insurance receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the commissioner shall send, or require the testing service to send, notice to the examinee of the reason for the delay before the 90th day. If requested in writing by a person who fails the licensing examination administered under this article, the commissioner of insurance shall send, or require the testing service to send, to the person an analysis of the person's performance on the examination.

SECTION 65. Article 23.23, Insurance Code, as amended, is amended by adding Paragraph (1) to read as follows:

(1) The Commissioner of Insurance shall collect in advance from agents requesting duplicate licenses a fee not to exceed \$20. The State Board of Insurance shall determine the amount of the fee.

SECTION 66. Chapter 21, Insurance Code, as amended, is amended by adding Article 21.01-1 to read as follows:

Art. 21.01-1. Agent's Qualifying Examination to be Prescribed by the Board

The State Board of Insurance may, at its discretion, accept examinations administered by a testing service as satisfying the examination requirements of persons seeking license as agents, solicitors, counselors or adjusters under this code. The State Board of Insurance may negotiate agreements with such testing services to include performance of examination development, test scheduling, examination

site arrangements, and test administration, grading, reporting and analysis. The State Board of Insurance may require such testing services to correspond directly with the applicants with regards to the administration of such examinations, and that such testing services collect fees for administering such examinations directly from the applicants. The State Board of Insurance may stipulate that any agreements with such testing services provide for the administration of examinations in specific locales and at specified frequencies. The State Board of Insurance shall retain the authority to establish the scope and type of all examinations. Prior to negotiating and making any agreement with any testing service as authorized hereby, the State Board of Insurance shall hold a public hearing thereon in accordance with the provisions of Article 6252-13a, Section 5, Revised Civil Statutes of Texas, and shall adopt such rules, regulations and standards as may be deemed appropriate by the Board to implement the authority granted in this Article.

The commissioner may appoint advisory boards consisting of any of the following persons: persons holding a license for which the respective examinations are intended, persons who are employed by insurance companies appointing such licensees, persons acting as general agents or managers, persons teaching insurance at an accredited college or university in Texas, persons who are citizens of the State of Texas but who are not of any of the preceding descriptions, or any combination of such persons. The function of such advisory boards will be to make recommendations to the State Board of Insurance or the testing service with respect to the scope, type and conduct of such examinations and the times and places within the state where they shall be held. The members of such advisory board shall serve without pay but shall be reimbursed for their reasonable expenses in attending meetings of their respective advisory boards.

In the absence of an agreement with a testing service, the State Board of Insurance shall administer any required qualifying examination in accordance with the provisions of the respective statutes governing the issuance of the license sought by the applicant.

SECTION 67. This Act takes effect September 1, 1985.

SECTION 68. Section 18, Article 21.07, Insurance Code, as amended, is amended to read as follows:

Sec. 18. Notwithstanding any provisions of either this Article or of the Insurance Code to the contrary, an employee, officer, director, or shareholder of either a state or national bank, or a state or federal savings and loan association or corporation, who is licensed as an agent under this Article and who enters into a contract with an insurer to act as the insurer's agent in soliciting or writing policies or certificates of credit life insurance, credit accident and health insurance, or both, covering debtors of the bank or savings and loan in which such agent is an employee, officer, director, or shareholder, may assign and transfer to such bank or savings and loan any commissions, fees, or other compensation to be paid to such agent under the agent's contract with the insurer.

SECTION 69. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended and that this Act take effect and be in force from and after its passage, and it is so enacted.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

SENATE RULE 74a SUSPENDED

On motion of Senator Lyon and by unanimous consent, Senate Rule 74a was suspended as it relates to House amendments to S.B. 699.

SENATE BILL 699 WITH HOUSE AMENDMENTS

Senator Lyon called S.B. 699 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Floor Amendment No. 1 - Gilley

Amend S.B. 699 as follows:

(1) Strike Subsection (b) (2) of Section 1 and insert: (2) a mining or reclamation activity confined to a single, contiguous tract of land, so long as such activity is conducted within an area no larger than five acres.

(2) Strike Subsection (b) (3) of Section 1 and insert: (3) a mining operation or reclamation activity which is conducted solely upon real property which is owned in fee simple by the person conducting the operation or reclamation activity and the mining or reclamation activity is confined to a single, contiguous tract of land, so long as such activity is conducted within an area no larger than twenty acres and only if the depth of the mining operation is restricted to 30 inches or less.

Floor Amendment No. 2 - Gilley

Amend S.B. 699 as follows:

Strike "September 1, 1983" on page 1, line 17, and substitute "September 1, 1985" [September 1, 1983].

The amendments were read.

Senator Lyon moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 699 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Lyon, Chairman; Santiesteban, Truan, Uribe, Montford.

SENATE JOINT RESOLUTION 27 WITH HOUSE AMENDMENTS

Senator Montford called S.J.R. 27 from the President's table for consideration of the House amendments to the resolution.

The President laid the resolution and the House amendments before the Senate.

Committee Amendment No. 1 - G. Thompson

Substitute the following for S.J.R. 27:

SENATE JOINT RESOLUTION

proposing a constitutional amendment to abolish the office of county treasurer in Andrews County.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article XVI, Section 44, of the Texas Constitution is amended to read as follows:

"Section 44. (a) Except as otherwise provided by ~~[Subsection (b) and Subsection (b)(1) of]~~ this section, the Legislature shall prescribe the duties and provide for the election by the qualified voters of each county in this State, of a County Treasurer and a County Surveyor, who shall have an office at the county seat, and hold their office for four years, and until their successors are qualified; and shall have such compensation as may be provided by law.

"(b) The office of County Treasurer in the counties of Tarrant and Bee is abolished and all the powers, duties, and functions of the office in each of these counties are transferred to the County Auditor or to the officer who succeeds to the auditor's functions. The

~~"[(b)(1) The]~~ office of County Treasurer in the counties of Bexar and Collin are abolished and all the powers, duties, and functions of the office in each of these counties are transferred to the County Clerk. However,

~~"[(c) Provided however, that]~~ the office of County Treasurer shall be abolished in the ~~[above]~~ counties covered by this subsection only after a local election has been held in each county and the proposition "to abolish the elective office of county treasurer" has passed by a majority of those persons voting in said election.

(c) The office of County Treasurer in Andrews County is abolished and all the powers, duties, and functions of that office are transferred to the County Auditor of that county or to the officer who succeeds to the auditor's functions.

"(d) The office of County Treasurer in the counties of El Paso, Henderson, Hood, Nueces, and Williamson is abolished. The Commissioners Court of the county may employ or contract with a qualified person or may designate another county officer to perform any of the functions that would have been performed by the County Treasurer if the office had not been abolished. However, the office of County Treasurer in the counties of El Paso, Henderson, Hood, Nueces, and Williamson is abolished under this subsection only if, at the statewide election at which this amendment is submitted to the voters, a majority of the voters of the respective counties of El Paso, Henderson, Hood, Nueces, and Williamson voting on the question at that election favor the amendment.

"(e) The office of County Surveyor in the counties of Denton, Randall, Collin, Dallas, El Paso, Henderson, Hood, Nueces, and Williamson is abolished upon the approval of the abolition by a majority of the qualified voters of the respective county voting on the question at an election that the Commissioners Court of the county may call. If the election is called, the Commissioners Court shall order the ballot at the election to be printed to provide for voting for or against the proposition: "Abolishing the office of county surveyor." Each qualified voter of the county is entitled to vote in the election. If the office of County Surveyor is abolished under this subsection, the maps, field notes, and other records in the custody of the County Surveyor are transferred to the County Clerk of the county. After abolition, the Commissioners Court may employ or contract with a qualified person to perform any of the functions that would have been performed by the County Surveyor if the office had not been abolished.

"(f) The office of County Treasurer in Andrews County is abolished under Subsection (c) of this section on the adoption of the constitutional amendment that added that subsection and that was proposed by Senate Joint Resolution 27 of the 69th Legislature, Regular Session, 1985. The office of County Treasurer in the

counties of El Paso, Henderson, Hood, Nueces, and Williamson is abolished under Subsection (d) of this section on January 1, 1986, if the conditions of that subsection are met. If that office in the counties of El Paso, Henderson, Hood, Nueces, and Williamson is not abolished, Subsection (d) of this section expires January 1, 1986. This subsection expires January 2, 1986.

SECTION 2. Article V, Section 18, of the Texas Constitution is amended by amending Subsection (a) and by adding Subsection (e) to read as follows:

“(a) Each county in the State with a population of 30,000 or more, according to the most recent federal census, from time to time, for the convenience of the people, shall be divided into not less than four and not more than eight precincts. Each county in the State with a population of 18,000 or more but less than 30,000, according to the most recent federal census, from time to time, for the convenience of the people, shall be divided into not less than two and not more than five precincts. Each county in the State with a population of less than 18,000, according to the most recent federal census, from time to time, for the convenience of the people, shall be designated as a single precinct or, if the Commissioners Court determines that the county needs more than one precinct, shall be divided into not more than four precincts. The division or designation shall be made by the Commissioners Court provided for by this Constitution. In each such precinct there shall be elected one Justice of the Peace and, except as provided by Subsection (e) of this Article, one Constable, each of whom shall hold his office for four years and until his successor shall be elected and qualified; provided that in any precinct in which there may be a city of 18,000 or more inhabitants, there shall be elected two Justices of the Peace.

“(e) Each office of Constable in the counties of Randall, Henderson, and Navarro is abolished upon the approval of the abolition by a majority of the qualified voters of the county voting on the question at an election that the Commissioners Court of the county may call. If the election is called, the Commissioners Court shall order the ballot at the election to be printed to provide for voting for or against the proposition: ‘Abolishing the office of constable in the county.’ Each qualified voter of the county is entitled to vote in the election. If the office of Constable is abolished under this subsection, the records in the custody of the Constable are transferred to the Sheriff of the county.”

SECTION 3. This proposed amendment shall be submitted to the voters at an election to be held on November 5, 1985. The ballot shall be printed to provide for voting for or against the proposition: “The constitutional amendment to provide for:

“(1) the abolition of the office of county treasurer in the counties of Andrews, El Paso, Henderson, Hood, Nueces, and Williamson;

“(2) the abolition of the office of county surveyor in the counties of Collin, Dallas, Denton, El Paso, Henderson, Hood, Nueces, Randall, and Williamson; and

“(3) the abolition of the office of constable in the counties of Henderson, Navarro, and Randall.”

Floor Amendment No. 1 - Waldrop

Amend C.S.S.J.R. 27 as follows:

(1) Strike “Henderson,” in the following places:

(A) On page 2, lines 10, 15, and 19; and

(B) On page 3, lines 15 and 18.

(2) Strike “Henderson,” on page 5, line 8.

Floor Amendment No. 2 - Keller

Amend C.S.S.J.R. 27 as follows:

- (1) Strike Section 2 of the joint resolution and renumber subsequent sections appropriately.
- (2) On page 5, line 9, after the semicolon, insert "and".
- (3) On page 5, strike the language beginning on line 12 with the semicolon and ending on line 14 with "Randall".

The amendments were read.

Senator Montford moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the resolution.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.J.R. 27 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the resolution: Senators Montford, Chairman; Traeger, Truan, Sims, Sharp.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 549 ADOPTED

Senator Caperton called from the President's table the Conference Committee Report on S.B. 549. (The Conference Committee Report having been filed with the Senate and read on May 20, 1985.)

On motion of Senator Caperton, the Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT SENATE BILL 37

Senator Brown called from the President's table the Conference Committee Report on S.B. 37. (The Conference Committee Report having been filed with the Senate and read on May 23, 1985.)

On motion of Senator Brown and by unanimous consent, the Conference Committee Report on S.B. 37 was withdrawn.

CONFERENCE COMMITTEE REPORT SENATE BILL 37 AGAIN FILED

Senator Brown submitted the following Conference Committee Report:

Austin, Texas
May 23, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.B. 37 have met and had the same

under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

BROWN
CAPERTON
McFARLAND
GLASGOW
MONTFORD

On the part of the Senate

A. SMITH
T. SMITH
WALDROP
KELLER
MORALES

On the part of the House

**A BILL TO BE ENTITLED
AN ACT**

relating to jury instructions on parole and good conduct time credit.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 37.07, Code of Criminal Procedure, 1965, is amended by adding Section 4 to read as follows:

Sec. 4. (a) In the penalty phase of the trial of a felony case in which the punishment is to be assessed by the jury rather than the court, if the offense of which the jury has found the defendant guilty is listed in Section 3f(a)(1), Article 42.12, of this code or if the judgment contains an affirmative finding under Section 3f(a)(2), Article 42.12, of this code, unless the defendant has been convicted of a capital felony the court shall charge the jury in writing as follows:

"Under the law applicable in this case, the defendant, if sentenced to a term of imprisonment, may earn time off the sentence imposed through the award of good conduct time. Prison authorities may award good conduct time to a prisoner who exhibits good behavior, diligence in carrying out prison work assignments, and attempts at rehabilitation. If a prisoner engages in misconduct, prison authorities may also take away all or part of any good conduct time earned by the prisoner.

"It is also possible that the length of time for which the defendant will be imprisoned might be reduced by the award of parole.

"Under the law applicable in this case, if the defendant is sentenced to a term of imprisonment, he will not become eligible for parole until the actual time served equals one-third of the sentence imposed or 20 years, whichever is less, without consideration of any good conduct time he may earn. If the defendant is sentenced to a term of less than six years, he must serve at least two years before he is eligible for parole. Eligibility for parole does not guarantee that parole will be granted.

"It cannot accurately be predicted how the parole law and good conduct time might be applied to this defendant if he is sentenced to a term of imprisonment, because the application of these laws will depend on decisions made by prison and parole authorities.

"You may consider the existence of the parole law and good conduct time. However, you are not to consider the extent to which good conduct time may be awarded to or forfeited by this particular defendant. You are not to consider the manner in which the parole law may be applied to this particular defendant."

(b) In the penalty phase of the trial of a felony case in which the punishment is to be assessed by the jury rather than the court, if the offense is punishable as a felony of the first degree, if prior convictions have been alleged for enhancement of punishment as provided by Section 12.42(b), (c), or (d), Penal Code, or if the offense is a felony not designated as a capital felony or a felony of the first, second, or third degree and the maximum term of imprisonment that may be imposed for the offense is longer than sixty years, unless the offense of which the jury has found the defendant guilty is listed in Section 3f(a)(1), Article 42.12, of this code or the judgment contains an affirmative finding under Section 3f(a)(2), Article 42.12, of this code, the court shall charge the jury in writing as follows:

"Under the law applicable in this case, the defendant, if sentenced to a term of imprisonment, may earn time off of the sentence imposed through the award of

good conduct time. Prison authorities may award good conduct time to a prisoner who exhibits good behavior, diligence in carrying out prison work assignments, and attempts at rehabilitation. If a prisoner engages in misconduct, prison authorities may also take away all or part of any good conduct time earned by the prisoner.

"It is also possible that the length of time for which the defendant will be imprisoned might be reduced by the award of parole.

"Under the law applicable in this case, if the defendant is sentenced to a term of imprisonment, he will not become eligible for parole until the actual time served plus any good conduct time earned equals one-third of the sentence imposed or 20 years, whichever is less. Eligibility for parole does not guarantee that parole will be granted.

"It cannot accurately be predicted how the parole law and good conduct time might be applied to this defendant if he is sentenced to a term of imprisonment, because the application of these laws will depend on decisions made by prison and parole authorities.

"You may consider the existence of the parole law and good conduct time. However, you are not to consider the extent to which good conduct time may be awarded to or forfeited by this particular defendant. You are not to consider the manner in which the parole law may be applied to this particular defendant."

(c) In the penalty phase of the trial of a felony case in which the punishment is to be assessed by the jury rather than the court, if the offense is punishable as a felony of the second or third degree, if a prior conviction has been alleged for enhancement as provided by Section 12.42(a), Penal Code, or if the offense is a felony not designated as a capital felony or a felony of the first, second, or third degree and the maximum term of imprisonment that may be imposed for the offense is 60 years or less unless the offense of which the jury has found the defendant guilty is listed in Section 3f(a)(1), Article 42.12, of this code or the judgment contains an affirmative finding under Section 3f(a)(2), Article 42.12, of this code, the court shall charge the jury in writing as follows:

"Under the law applicable in this case, the defendant, if sentenced to a term of imprisonment, may earn time off the sentence imposed through the award of good conduct time. Prison authorities may award good conduct time to a prisoner who exhibits good behavior, diligence in carrying out prison work assignments, and attempts at rehabilitation. If a prisoner engages in misconduct, prison authorities may also take away all or part of any good conduct time earned by the prisoner.

"It is also possible that the length of time for which the defendant will be imprisoned might be reduced by the award of parole.

"Under the law applicable in this case, if the defendant is sentenced to a term of imprisonment, he will not become eligible for parole until the actual time served plus any good conduct time earned equals one-third of the sentence imposed. Eligibility for parole does not guarantee that parole will be granted.

"It cannot accurately be predicted how the parole law and good conduct time might be applied to this defendant if he is sentenced to a term of imprisonment, because the application of these laws will depend on decisions made by prison and parole authorities.

"You may consider the existence of the parole law and good conduct time. However, you are not to consider the extent to which good conduct time may be awarded to or forfeited by this particular defendant. You are not to consider the manner in which the parole law may be applied to this particular defendant."

(d) This section does not permit the introduction of evidence on the operation of parole and good conduct time laws.

SECTION 2. This Act takes effect September 1, 1985.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public

necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was again read and filed with the Secretary of the Senate.

SENATE CONCURRENT RESOLUTION 181 ON SECOND READING

On motion of Senator Jones and by unanimous consent, the regular order of business and Senate Rule 14.2 relating to the Intent Calendar were suspended to take up for consideration at this time on its second reading and adoption:

S.C.R. 181, Establishing Joint Special Committee on Insurance Tax Laws.

The resolution was read second time and was adopted.

SENATE BILL 1495 ON SECOND READING

Senator Jones asked unanimous consent to suspend the regular order of business and Senate rule 14.2 relating to the Intent Calendar to take up for consideration at this time:

S.B. 1495, Relating to the effective date of **H.B. 1147**, Acts of the 69th Legislature, Regular Session.

There was objection.

Senator Jones then moved to suspend the regular order of business and Senate rule 14.2 to take up **S.B. 1495** for consideration at this time.

The motion prevailed by the following vote: Yeas 21, Nays 4.

Yeas: Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Jones, Kothmann, Krier, Lyon, McFarland, Montford, Parker, Santiesteban, Sarpalius, Sharp, Sims, Williams.

Nays: Barrientos, Mauzy, Truan, Washington.

Absent: Howard, Leedom, Parmer, Traeger, Uribe, Whitmire.

The bill was read second time and was passed to engrossment.

RECORD OF VOTES

Senators Barrientos, Mauzy, Truan and Washington asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

SENATE BILL 1495 ON THIRD READING

Senator Jones moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 1495** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 21, Nays 5.

Yeas: Blake, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Krier, Lyon, McFarland, Montford, Parker, Santiesteban, Sarpalius, Sharp, Sims, Traeger.

Nays: Barrientos, Brooks, Mauzy, Truan, Washington.

Absent: Leedom, Parmer, Uribe, Whitmire, Williams.

The bill was read third time and was passed by the following vote: Yeas 22, Nays 6.

Yeas: Blake, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Krier, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Williams.

Nays: Barrientos, Brooks, Kothmann, Mauzy, Truan, Washington.

Absent: Leedom, Uribe, Whitmire.

**CONFERENCE COMMITTEE REPORT
SENATE BILL 807**

Senator Traeger submitted the following Conference Committee Report:

Austin, Texas
May 24, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 807** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

TRAEGER
PARMER
SHARP
EDWARDS
CAPERTON

On the part of the Senate

SAUNDERS
EARLEY
JOHNSON
JONES
ECKELS

On the part of the House

**A BILL TO BE ENTITLED
AN ACT**

relating to the procedures governing purchases made by counties; providing penalties; amending Sections 2, 2a, 2b, 3, 4, and 5, Bond and Warrant Law of 1931, as amended; Subsection (b), Section 6, and Section 7, The Certificate of Obligation Act of 1971, as amended; Section 1, Chapter 453, Acts of the 45th Legislature, Regular Session, 1937, as amended; Section 1, Chapter 360, Acts of the 47th Legislature, Regular Session, 1941, as amended; Section 1, Chapter 424, Acts of the 47th Legislature, Regular Session, 1941; Sections 1 and 2, Chapter 116, Acts of the 56th Legislature, Regular Session, 1959, as amended; Subdivision 2, Subsection (e), Section 3.102, and Section 3.211, County Road and Bridge Act, as amended (Articles 2368a, 2368a.1, 2351a, 2351a-1, 2351a-2, 2367a, and 6702-1, Vernon's Texas Civil Statutes); and repealing Articles 1658, 1659, 1659a, 1659b, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, and 2367, Revised Statutes, and Section 4.436, County Road and Bridge Act and Sections 25 and 26, Chapter 299, Acts of the 52nd Legislature, 1951 (Articles 6702-1 and 6812b, Vernon's Texas Civil Statutes).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The County Purchasing Act is enacted to read as follows:

"Section 1. **SHORT TITLE.** This Act may be cited as the County Purchasing Act.

"Section 2. **DEFINITIONS.** In this Act:

"(1) 'Current funds' means funds in the county treasury that are available in the current tax year, revenue that may be anticipated with reasonable certainty to come into the county treasury during the current tax year, and emergency funds.

"(2) 'Bond funds' means money in the county treasury received from the sale of bonds, and proceeds of bonds that have been voted but that have not been issued and delivered.

"(3) 'Item' means any service, equipment, good, or other tangible or intangible personal property. The term includes insurance and high technology items.

"(4) 'High technology item' means a service, equipment, or good of a highly technical nature, including: data processing equipment and software and firmware used in conjunction with data processing equipment; telecommunications, radio, and microwave systems; electronic distributed control systems (including building energy management systems); and technical services related to these items.

"(5) 'Time warrant' means any warrant issued by a county that is not payable out of current funds.

"Section 3. COMPETITIVE BIDDING REQUIREMENT. (a) Before a county may purchase one or more items under a contract that will require an expenditure exceeding \$5,000, the commissioners court of the county must comply with the competitive bidding or competitive proposal procedures prescribed by this Act. All bids or proposals must be sealed.

"(b) The competitive bidding and competitive proposal requirements established by Subsection (a) of this section apply only to contracts for which payment will be made from current funds or bond funds or through time warrants. However, contracts for which payments will be made through certificates of obligation are governed by The Certificate of Obligation Act of 1971 (Article 2368a.1, Vernon's Texas Civil Statutes).

"(c) In applying the competitive bidding and competitive proposal requirements established by Subsection (a) of this section, all separate, sequential, and/or component purchases of items ordered or purchased, with the intent of avoiding the competitive bidding and competitive proposal requirements of this Act, from the same supplier by the same county officer, department, or institution are treated as if they are part of a single purchase and of a single contract.

"Section 4. EXEMPTIONS. (a) A contract for the purchase of any of the following items is exempt from the requirement established by Section 3 of this Act if the commissioners court by order grants the exemption:

"(1) an item that must be purchased in a case of public calamity if it is necessary to make the purchase promptly to relieve the necessity of the citizens or to preserve the property of the county;

"(2) an item necessary to preserve or protect the public health or safety of the residents of the county;

"(3) an item made necessary by unforeseen damage to public property;

"(4) a personal or professional service;

"(5) any work performed and paid for by the day, as the work progresses;

"(6) any land or right-of-way; or

"(7) an item that can be obtained from only one source, including: items for which competition is precluded because of the existence of patents, copyrights, secret processes, or natural monopolies; films, manuscripts, or books; electric power, gas, water, and other utility services; and captive replacement parts or components for equipment.

"(b) If an item exempted under Subdivision (7) of Subsection (a) of this section is purchased, the commissioners court, after accepting a signed statement from the county official who makes purchases for the county as to the existence of only one source, must enter in its minutes a statement to that effect.

"Section 5. COMPETITIVE BIDDING NOTICE. (a) A notice of a proposed purchase must be published at least once a week in a newspaper of general circulation in the county, with the first day of publication at least 14 days before the date of the bid opening. If there is no newspaper of general circulation in the county, the notice must be posted in a prominent place in the courthouse for 14 days before the date of the bid opening.

“(b) The notice must include:

“(1) the specifications describing the item to be purchased or a statement of where the specifications may be obtained;

“(2) the time and place for receiving and opening bids and the name and position of the county official or employee to whom the bids are to be sent;

“(3) whether the bidder should use lump-sum or unit pricing;

“(4) the method of payment by the county; and

“(5) the type of bond required by the bidder.

“(c) If any part of the payment for a proposed purchase will be made through time warrants, the notice also must include a statement of the maximum amount of time warrant indebtedness, the rate of interest on the time warrants, and the maximum maturity date of the time warrants.

“Section 6. OPENING OF BIDS. (a) The county official who makes purchases for the county shall open the bids on the date specified in the notice. The date specified in the notice may be extended by the commissioners court if an error is discovered in the original specifications or the nature of the item to be purchased requires an extension in order for the county to best utilize the provisions of Section 10 of this Act.

“(b) Opened bids shall be kept on file and available for inspection by anyone desiring to see them.

“Section 7. AWARDING OF CONTRACT. (a) The officer in charge of opening the bids shall present them to the commissioners court in session. The court shall award the contract to the responsible bidder who submits the lowest and best bid, or the court shall reject all bids and publish a new notice.

“(b) In cases where two responsible bidders submit the lowest and best bid, the commissioners court shall decide between the two by drawing lots in a manner prescribed by the county judge.

“(c) A contract may not be awarded to a bidder who is not the lowest dollar bidder meeting specifications unless, before the award, each lower bidder is given notice of the proposed award and is given an opportunity to appear before the commissioners court and present evidence concerning the lower bidder's responsibility.

“Section 8. LUMP-SUM OR UNIT PRICE METHOD. A purchase may be proposed on a lump-sum or unit price basis. If the county chooses to use unit pricing in its notice, the information furnished bidders shall specify the approximate quantities estimated on the best available information, but the compensation paid the bidder must be based upon the actual quantities purchased.

“Section 9. TIME WARRANT ELECTION. If before the date tentatively set for the authorization of the issuance of time warrants applying to a contract covered by this Act or if before that authorization a petition signed by five percent of the registered voters of the county is filed with the county clerk protesting the issuance of the time warrants, the county may not issue the time warrants unless the issuance is approved at an election called, held, and conducted in the manner provided for county bond elections under Chapter 1, Title 22, Revised Statutes.

“Section 10. ALTERNATIVE COMPETITIVE PROPOSAL PROCEDURE FOR CERTAIN PURCHASES. (a) The competitive proposal procedure as provided in this section may be used for the purchase of insurance or high technology items. Quotations shall be solicited through a request for proposals. Public notice for the request for proposals must be made in the same manner as provided in the competitive bidding procedure. The request for proposals must specify the relative importance of price and other evaluation factors. The award of the contract shall be made to the responsible offeror whose proposal is determined to be the lowest evaluated offer resulting from negotiation taking into consideration the relative importance of price and other evaluation factors set forth in the request for proposals.

"(b) If provided in the request for proposals, proposals shall be opened so as to avoid disclosure of contents to competing offerors and kept secret during the process of negotiation. However, all proposals that have been submitted shall be open for public inspection after the contract is awarded, except for trade secrets and confidential information contained in the proposals and identified as such.

"(c) As provided in the request for proposals and under rules adopted by the commissioners court, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award. Offerors must be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submission and before award for the purpose of obtaining best and final offers.

"Section 11. CHANGES IN PLANS AND SPECIFICATIONS. (a) If it becomes necessary to make changes in plans, specifications, or proposals after a contract is made or if it becomes necessary to increase or decrease the quantity of items purchased, the commissioners court may make the changes. However, the total contract price may not be increased unless the cost of the change can be paid from available funds.

"(b) If a change order involves an increase or decrease in cost of \$15,000 or less, the commissioners court may grant general authority to an employee to approve the change orders. However, the original contract price may not be increased by more than 25 percent. The original contract price may not be decreased by 18 percent or more without the consent of the contractor.

"Section 12. BOND REQUIREMENTS FOR BIDDERS. (a) If the contract is for the construction of public works or is under a contract exceeding \$50,000, the bid specifications or request for proposals may require the bidder to furnish a good and sufficient bid bond in the amount of five percent of the total contract price and executed with a surety company authorized to do business in this state.

"(b) Not later than the 10th day after the day of the signing of a contract or issuance of a purchase order following the acceptance of a bid or proposal, the bidder or proposal offeror shall furnish a performance bond to the county, if required by the county, for the full amount of the contract if that contract exceeds \$50,000.

"(c) For those contracts that are for \$50,000 or less, the county may provide in the bid notice or request for proposals that no money will be paid to the contractor until completion and acceptance of the work or the fulfillment of the purchase obligation to the county.

"(d) A bidder or proposal offeror whose rates are subject to regulation by a state agency may not be required to furnish a performance bond or a bid bond under this section.

"Section 13. INJUNCTION. Performance under a contract made by a county without complying with this Act may be enjoined by any property tax paying citizen of the county.

"Section 14. CRIMINAL PENALTY. (a) A county officer or employee who knowingly or intentionally makes or authorizes separate, sequential, and/or component purchases in order to avoid the competitive bidding requirements of Section 3 of this Act commits an offense. The offense is a Class B misdemeanor and shall, upon final conviction, result in the immediate removal of the county officer or employee from office.

"(b) A county officer or employee who knowingly or intentionally violates this Act commits an offense. The offense is a Class C misdemeanor, except that a violation of the competitive bidding requirements under Subsection (a) of this section is a Class B misdemeanor."

SECTION 2. Sections 2, 2a, 2b, 3, 4, and 5, Bond and Warrant Law of 1931, as amended (Article 2368a, Vernon's Texas Civil Statutes), are amended to read as follows:

"Section 2. (a) No ~~[county, acting through its Commissioners Court, and no]~~ city in this state shall hereafter make any contract calling for or requiring an expenditure or payment in an amount exceeding five thousand dollars (\$5,000.00) out of any fund or funds of any city ~~[or county or subdivision of any county]~~ creating or imposing an obligation or liability of any nature or character ~~[upon such county or any subdivision of such county, or]~~ upon such city, without first submitting such proposed contract to competitive bids.

"(b) Notice of the time and place when and where such contracts shall be let shall be published ~~[in such county (if concerning a county contract or contracts for such subdivision of such county) and]~~ in such city~~[(if concerning a city contract);]~~ once a week for two (2) consecutive weeks prior to the time set for letting such contract, the date of the first publication to be at least fourteen (14) days prior to the date set for letting said contract; and said contract shall be let to the lowest responsible bidder. The ~~[court and/or]~~ governing body shall have the right to reject any and all bids, and if the contract is for the construction of public works, then the successful bidder shall be required to give a good and sufficient bond in the full amount of the contract price, for the faithful performance of such contract, executed by some surety company authorized to do business in this state in accordance with the provisions of Article 5160, Revised Statutes of 1925, and the amendments thereto. However, the city ~~[or county]~~ in making any contract calling for or requiring the expenditure or payment of less than Fifty Thousand Dollars (\$50,000.00) may, in lieu of the bond requirement, provide in the contract that no money will be paid to the contractor until completion and acceptance of the work by the city ~~[or county]~~. If there is no newspaper published in such county, the notice of the letting of such contract by such county shall be given by causing notice thereof to be posted at the County Court House door for fourteen (14) days prior to the time of letting such contract]. If there is no newspaper published in such city, then the notice of letting such contract shall be given by causing notice thereof to be posted at the City Hall for fourteen (14) days prior to the time of letting such contract. Provided, that in case of public calamity, where it becomes necessary to act at once to appropriate money to relieve the necessity of the citizens, or to preserve the property of such ~~[county, subdivision, or]~~ city, or when it is necessary to preserve or protect the public health of the citizens of such ~~[county or]~~ city, or in case of unforeseen damage to public property, machinery or equipment, this provision shall not apply; and provided further, as to contracts for personal or professional services; work done by such ~~[county or]~~ city and paid for by the day, as such work progresses; and the purchase of land and right-of-way for authorized needs and purposes, the provisions hereof requiring competitive bids shall not apply and in such cases the notice herein provided shall be given but only with respect to an intention to issue time warrants with right of referendum as contemplated in Sections 3 and 4 hereof respectively.

"(c) Provisions in reference to notice to bidders, advertisement thereof, requirements as to the taking of sealed bids based upon specifications for public improvements or purchases, and the manner of letting of contracts, as contained in the charter of a city, if in conflict with the provisions of this Act, shall be followed in such city notwithstanding any other provisions of this Act. The provisions of this Act and of Article 5160, Revised Statutes of 1925, as amended, relating to the furnishing of surety bonds by contractors may be adopted by ordinance of the governing body of a city, notwithstanding conflicting city charter provisions.

"(d) Any and all such contracts or agreements hereafter made by any ~~[county or]~~ city in this state, without complying with the terms of this section, shall be void

and shall not be enforceable in any court of this state and the performance of same and the payment of any money thereunder may be enjoined by any property taxpaying citizen of such ~~[county or]~~ city.

"Section 2a. Contracts for the construction of public works or the purchase of materials, equipment and supplies may be let under the provisions of Section 2 on a lump sum basis or on a unit price basis, as the governing body ~~[or Commissioners Court]~~ shall determine. In the event a contract is to be let on a unit price basis, the information furnished bidders shall specify the approximate quantities estimated upon the best available information, but the compensation paid the contractor shall be based upon the actual quantities constructed or supplied.

"In the event it becomes necessary to make changes in the plans or specifications after performance of a contract has been commenced, or it becomes necessary to decrease or increase the quantity of work to be performed or materials, equipment or supplies to be furnished, the ~~[Commissioners Court or]~~ governing body shall be authorized to approve change orders effecting such changes but the total contract price shall not be increased thereby unless due provision has been made to provide for the payment of such added cost either by appropriating available funds for that purpose or by authorizing the issuance of time warrants as provided in the Act amended hereby.

"Where any change order involves a decrease or increase in cost of fifteen thousand dollars (\$15,000) or less, the ~~[Commissioner's Court or]~~ governing body may grant general authority to one of its administrative officials to approve such change orders.

"Provided, however, that the original contract price may not be increased under the provisions of this Section 2a by more than twenty-five (25%) per cent or decreased more than twenty-five (25%) per cent without the consent of the contractor to such decrease.

"Section 2b. Contracts for the purchase of machinery for the construction and/or maintenance of roads and/or streets, may be made by the governing bodies of all ~~[counties and]~~ cities within the State in accordance with the provisions of this Section. The order for purchase and notice for bids shall provide full specification of the machinery desired and contracts for the purchase thereof shall be let to the lowest and best bidder.

"Section 3. When it shall be the intention of the ~~[Commissioners' Court, or of the]~~ governing body, to issue time warrants for the payment of all or any part of the proposed contract, the notice to bidders required under Section 2 of this Act shall recite that fact, setting out the maximum amount of the proposed time warrant indebtedness, the rate of interest such time warrants are to bear, and the maximum maturity date thereof.

"Section 4. If, by the time set for the letting of the contract, as many as ten per cent (10%) in number of the qualified voters of said ~~[county, or]~~ city, ~~[as the case may be,]~~ whose names appear on the last approved tax rolls as property taxpayers, petition the ~~[Commissioners' Court, or]~~ governing body, in writing to submit to a referendum vote the question as to the issuance of bonds for such purpose, then such ~~[Commissioners' Court, or]~~ governing body, shall not be authorized to make said expenditure, and shall not finally award said contract unless the proposition to issue bonds for such purpose is sustained by a majority of the votes cast at such election. The law in reference to elections for the issuance of city ~~[and county]~~ bonds as contained in Chapters 1 and 2, Title 22, Revised Statutes of 1925, shall govern in so far as consistent with the provisions of this Act. The law in reference to the issuance, approval, registration and sale of bonds as contained in Chapters 1 and 2, Title 22, Revised Statutes of 1925, shall govern insofar as consistent with the provisions of this Act. Provided, that all such bonds shall mature and be payable as provided herein for funding bonds.

"If such petition is not so filed with the [~~County Clerk, or the~~] City Secretary or Clerk, then the [~~Commissioners' Court or the~~] governing body may proceed with the final award of the contract and with the issuance of said warrants, but in the absence of such petition, the [~~Commissioners' Court or~~] governing body may at its discretion also submit such question to a vote of the people.

"Section 5. [~~The notice required in Sections 2 and 3, and the right to referendum election defined in Section 4, shall not be applicable to expenditures payable out of current funds or bond funds, as above described, nor to additional expenditures by counties unless in excess of Five Hundred (\$500.00) Dollars for each One Million (\$1,000,000.00) Dollars, or a part thereof, of taxable property in said county, according to the last approved tax rolls; provided, however, that in counties of a valuation of less than Six Million (\$6,000,000.00) Dollars, said restriction of Five Hundred (\$500.00) Dollars for each One Million (\$1,000,000.00) Dollars shall not apply, but in lieu thereof the maximum authorized warrants shall be Three Thousand (\$3,000.00) Dollars annually; said Five Hundred (\$500.00) Dollars for every One Million (\$1,000,000.00) Dollars of property shall be the maximum amount of time warrants for all purposes to be issued by such county during the current calendar year, including the proposed expenditure, except in the counties of a valuation of less than Six Million (\$6,000,000.00) Dollars as above provided, and provided further that no such warrants shall ever be issued by a county in excess of One Hundred Thousand (\$100,000.00) Dollars for any one year, without the duty to give notice and the right to referendum provided in Section 3. If in excess of the maximum, the expenditure cannot be authorized until the expiration of the time for filing the petition for referendum vote has expired.] The notice required and the right to referendum election defined in Sections 2, 3 and 4 shall not be applicable to expenditures payable out of the current funds or bond funds, as above described, nor to additional expenditures by cities unless in excess of Seven Thousand, Five Hundred (\$7,500.00) Dollars for cities having a population of five thousand (5,000) people, or less, as shown by the Federal Census immediately preceding; in excess of Ten Thousand (\$10,000.00) Dollars for cities having a population of more than five thousand (5,000), and less than twenty-five thousand (25,000) as shown by the Federal Census immediately preceding; in excess of Twenty-five Thousand (\$25,000.00) Dollars for cities having a population of more than twenty-five thousand (25,000) and less than fifty thousand (50,000), as shown by the Federal Census immediately preceding, and in excess of One Hundred Thousand (\$100,000.00) Dollars for cities having a population of more than fifty thousand (50,000) as shown by the Federal Census immediately preceding. Said respective amounts above described shall be the maximum amounts of time warrants for all purposes to be issued by such cities during the current calendar year, without the duty to give notice and the right to referendum, provided in Sections 2, 3 and 4; otherwise, the expenditure cannot be authorized until the expiration of time for the filing of petition for referendum vote has expired, including the proposed expenditure.~~

"Provided, that in case of public calamity caused by fire, flood, storm, or to protect the public health, or in case of unforeseen damage to public property, machinery or equipment, the [~~Commissioners' Court or the~~] governing body may issue such time warrants as are necessary to provide for the immediate repair, preservation or protection of public property and the lives and health of the citizens of such [~~county or~~] city, irrespective of the limitations contained in this Section and the restrictions imposed by Sections 2, 3 and 4 hereof."

SECTION 3. Subsection (b), Section 6; The Certificate of Obligation Act of 1971, as amended (Article 2368a.1, Vernon's Texas Civil Statutes), is amended to read as follows:

"(b) Notice of the time, place, when and where such contract shall be let shall be given in accordance with the provisions of (i) Section 2[.] or Section 2(a) of the

Bond and Warrant Law of 1931 (Article 2368a, Vernon's Texas Civil Statutes) for cities, or the County Purchasing Act for counties[, as amended] or (ii) the home rule charter of an issuer or (iii) this Act. If such notice is given under the provisions of this Act, it shall be published once a week for two consecutive weeks in a newspaper as defined in Chapter 84, Acts of the 43rd Legislature, 1st Called Session, 1933, as amended (Article 28a, Vernon's Texas Civil Statutes), of general circulation in the city or county which is to receive bids, the date of the first publication to be 14 days prior to the date set for the receipt of bids, and shall specify that plans and specifications for the work to be done or specifications for machinery, supplies, equipment or materials to be purchased are on file with a designated official of the issuer where they may be examined without charge. All contracts for the construction of public works, the purchase of materials, equipment, supplies, or machinery let under the provisions of this Act shall be let to the lowest responsible bidder and may be let on a lump sum basis or on a unit price basis, as the governing body shall determine. In the event a contract is to be let on a unit price basis, the information furnished bidders shall specify the approximate quantities estimated upon the best available information, but the compensation paid the contractor shall be based upon the actual quantities constructed or supplied."

SECTION 4. Section 7, The Certificate of Obligation Act of 1971, as amended (Article 2368a.1, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 7. The provisions of Section 6 of this Act relating to advertisement for competitive bids shall not apply in the following instances:

"(1) in case of a public calamity where it becomes necessary to act at once to relieve the necessity of the citizens or to preserve the property of such city or county; or

"(2) where it is necessary to preserve or protect the public health of the citizens of such city or county; or

"(3) in the case of unforeseen damage to public property, machinery or equipment; or

"(4) contracts for personal or professional services; or

"(5) work done by employees of the issuer and paid for as such work progresses; or

"(6) the purchase of land, buildings, existing utility systems or rights-of-way for authorized needs and purposes; or

"(7) expenditures for or relating to improvements to a city water system, sewer system, streets or drainage (any one or all) where the cost of at least one-third (1/3) of which is to be paid by special assessments levied against properties to be benefited thereby; or

"(8) where the entire contractual obligation is to be paid from bond funds or current funds, or where an advertisement for bids has previously been published (in the manner authorized or permitted in Section 6) but the current funds or bond funds are not adequate to permit the awarding of a contract and the certificates are to be issued to provide the deficiency; or

"(9) the sale of any public security as such term is defined in Chapter 3, Acts of the 61st Legislature, Regular Session, 1969, as amended by Chapter 3, Acts of the 61st Legislature, 2nd Called Session, 1969; or

"(10) any other county contract for which the County Purchasing Act does not require competitive bidding procedures as described in Section 6 of this Act.

"Certificates authorized to be issued for the purpose or purposes specified in this section, in the discretion of the governing body of the issuer, may be sold for cash and the proceeds thereof shall be used only for the purpose or purposes for which the same were authorized; provided, (i) accrued interest received, if any, shall be deposited in the interest and sinking fund established for the payment of such

certificates and (ii) no certificate may be sold for cash to pay for work done by employees of the issuer and paid for as such work progresses and (iii) a certified copy of the proceedings relating to the authorization of such certificates shall be submitted to the Attorney General of Texas and be approved by such officer as having been authorized in accordance with the provisions of this Act. It shall be the duty of the Attorney General of Texas to examine the proceedings relating to the authorization of such certificates and the provisions of Article 709 through Article 716, inclusive, of Title 22 of the Revised Civil Statutes of Texas, 1925, as amended, and Chapter 204, Acts of the 57th Legislature, Regular Session, 1961, as amended by Chapter 290, Acts of the 60th Legislature, Regular Session, 1967, shall apply to and govern the execution, approval, registration, and validity of such certificates. From and after the registration of such certificates by the Comptroller of Public Accounts, the same shall be incontestable for any cause.

“Certificates approved by the Attorney General shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, and guardians, and for any sinking funds of cities, towns, villages, counties, school districts and other political corporations or subdivisions of the State of Texas. Such certificates shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts and other political corporations or subdivisions of the State of Texas, and shall be lawful and sufficient security for said deposits at their face value when accompanied by all unmatured coupons, if any, appurtenant thereto.”

SECTION 5. Section 1, Chapter 453, Acts of the 45th Legislature, Regular Session, 1937, as amended (Article 2351a, Vernon's Texas Civil Statutes), is amended to read as follows:

“Section 1. The Commissioners Court in counties having a population of more than three hundred thousand (300,000) and less than three hundred and fifty thousand (350,000) inhabitants in accordance with the last preceding Federal Census, and in counties having a population of more than forty-eight thousand, five hundred (48,500) and less than forty-nine thousand (49,000) inhabitants, and in counties having a population of not less than twenty-two thousand and eighty-nine (22,089) nor more than twenty-two thousand, one hundred (22,100) inhabitants, and in counties having a population of more than six thousand, one hundred (6,100) and less than six thousand, one hundred and eighty (6,180) inhabitants in accordance with the last preceding Federal Census, shall have the authority to purchase fire trucks and other fire-fighting equipment ~~[by first advertising and receiving bids thereon as provided by law,]~~ to be used for the protection and preservation of bridges, county shops, county warehouses, and other property located without the limits of any incorporated city or town.”

SECTION 6. Section 1, Chapter 360, Acts of the 47th Legislature, Regular Session, 1941 (Article 2351a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

“Section 1. The Commissioners Court in all counties of this State shall be authorized to furnish fire protection and fire-fighting equipment to the citizens of such county residing outside the city limits of any incorporated city, town or village within the county and/or adjoining counties. The Commissioners Court shall have the authority to purchase fire trucks and other fire-fighting equipment ~~[by first advertising and receiving bids thereon,]~~ and is hereby authorized to issue time warrants of the county and to levy and collect taxes to pay the interest and principal thereon as provided by law. The Commissioners Court of any county of this State shall also have the authority to enter into contracts with any city, town or village within the county and/or adjoining counties, upon such terms and conditions as shall be agreed upon between the Commissioners Court and the governing body of

such city, town or village, for the use of the fire trucks and other fire-fighting equipment of the city, town or village. It is specifically provided that the acts of any person or persons while fighting fires, traveling to or from fires, or in any manner furnishing fire protection to the citizens of a county outside the city limits of any city, town or village, shall be considered as the acts of agents of the county in all respects, notwithstanding such person or persons may be regular employees or firemen of a city, town or village. No city, town or village within a county and/or adjoining counties shall be held liable for the acts of any of its employees while engaged in fighting fires outside the city limits pursuant to any contract theretofore entered into between the Commissioners Court of the county and the governing body of the city, town or village."

SECTION 7. Section 1, Chapter 424, Acts of the 47th Legislature, Regular Session, 1941 (Article 2351a-2, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 1. The Commissioners Court in counties having a population of more than three hundred and fifty thousand (350,000) and less than four hundred and fifty thousand (450,000) inhabitants in accordance with the last preceding Federal Census shall have the authority to purchase fire trucks and other fire-fighting equipment ~~[by first advertising and receiving bids thereon as provided by law,]~~ to be used for the protection and preservation of bridges, county shops, county warehouses, and other property located without the limits of any incorporated city or town."

SECTION 8. Sections 1 and 2, Chapter 116, Acts of the 56th Legislature, Regular Session, 1959, as amended (Article 2367a, Vernon's Texas Civil Statutes), are amended to read as follows:

"Section 1. In all cases where bidding is required and where two or more responsible bidders submit the lowest and best bids in connection with a proposed ~~[county,]~~ city or district contract and these bids are identical in both amount and nature, ~~[the Commissioners Court of the county or]~~ the governing body of the city or district shall enter into a contract with only one of the responsible bidders and reject all other bids. The one bidder shall be selected by the casting of lots. The casting of lots shall be in such a manner as shall be prescribed by the ~~[County Judge or]~~ Mayor or governing body of the district, as the case may be, and shall be conducted in the presence of the governing body of the ~~[county,]~~ city or district at which time all qualified bidders or their legal representatives may also be present. Nothing herein shall prohibit the rejection of all bids by the awarding authority.

"Section 2. The provisions of this Act shall be applicable to all ~~[counties,]~~ cities and districts in the State of Texas where bidding is required and contracts are to be let on the basis of the lowest and best bid, regardless of whether the bids are submitted pursuant to the provisions of a General Law, a Special Law, a city charter, or a city ordinance; provided, however, that the provisions of this Act shall not apply or be construed to apply to the bidding by any person, bank, banking corporation or association for designation as depository of public funds of any ~~[county,]~~ city or district or to the letting of contracts therefor, nor shall such provisions apply to bids submitted to an independent school district by those persons or corporations seeking selection as a school depository under Subchapter E, Chapter 23, Education Code ~~[appointment as treasurer of the School Fund under Article 2832, Revised Civil Statutes of Texas, 1925, as last amended by Chapter 48, Acts of the 56th Legislature, Regular Session 1959]."~~

SECTION 9. Subdivision (2), Subsection (e), Section 3.102, County Road and Bridge Act (Article 6702-1, Vernon's Texas Civil Statutes), is amended to read as follows:

"(2) The commissioners court may, when considered best, construct, grade, gravel, or otherwise improve any road or bridge by contract~~[, advertise for bids, and~~

reject any bid. The contract shall be awarded to the lowest responsible bidder, who shall enter into bond with good and sufficient sureties payable to and to be approved by the county judge, in a sum determined by the court, conditioned on the faithful compliance with the contract]. At the time of making the contract the court shall direct the county treasurer to pass the amount of money stipulated in the contract to a particular fund and to keep a separate account of the money. The money may be used for no other purpose and can only be paid out on the order of the court."

SECTION 10. Section 3.211, County Road and Bridge Act (Article 6702-1, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 3.211. COMPETITIVE BIDDING. All equipment, materials, and supplies for the construction and maintenance of county roads and for the county road department shall be purchased by the commissioners court on competitive bids in conformity with estimates and specifications prepared by the county road engineer. However, on recommendation of the county road engineer and when in the judgment of the commissioners court it is considered in the best interest of the county, purchases in an amount not to exceed \$5,000 [~~\$1,000~~] may be made through negotiation by the commissioners court or the commissioners court's authorized representative on requisition to be approved by the commissioners court or the county auditor without advertising for competitive bids. Before any claim covering the purchase of the equipment, materials, and supplies and for any services contracted for by the commissioners court may be ordered paid by the commissioners court, the county road engineer must certify in writing the correctness of the claim and must certify that the respective equipment, materials, and supplies covered by the claim conform to specifications approved by him, that the equipment, materials, and supplies were delivered in good condition, and that any road department services contracted for by the commissioners court have been satisfactorily performed. This section does not permit the division or reduction of purchases for the purpose of avoiding the requirement of taking formal bids on purchases that would otherwise exceed \$5,000 [~~\$1,000~~]."

SECTION 11. The following laws are repealed:

(1) Articles 1658, 1659, 1659a, 1659b, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, and 2367, Revised Statutes;

(2) Section 4.436, County Road and Bridge Act (Article 6702-1, Vernon's Texas Civil Statutes); and

(3) Sections 25 and 26, Chapter 299, Acts of the 52nd Legislature, 1951 (Article 6812b, Vernon's Texas Civil Statutes).

SECTION 12. The amendment by this Act of Section 2, Bond and Warrant Law of 1931 (Article 2368a, Vernon's Texas Civil Statutes), is contingent on S.B. 802, Acts of the 69th Legislature, Regular Session, 1985, not becoming law. If S.B. 802 does become law, the amendment by this Act of Section 2, Bond and Warrant Law of 1931, has no effect.

SECTION 13. The County Purchasing Act and the amendments to laws made by this Act apply only to contracts for which the notice requesting bids or proposals is published or posted on or after the effective date of this Act. Other contracts are governed by the law as it existed before the effective date of this Act, and the former law is continued in force for this purpose.

SECTION 14. This Act takes effect September 1, 1985.

SECTION 15. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

HOUSE BILL 1844 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1844, Relating to the provision of primary health care services to eligible low-income individuals.

The bill was read second time and was passed to third reading.

HOUSE BILL 1844 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1844** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed.

COMMITTEE SUBSTITUTE HOUSE BILL 1963 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 1963, Relating to minimum standards concerning licensed hospitals and the transfer of a patient from one hospital to another, to the denial, suspension, and revocation of hospital licenses, and to enforcement of the hospital licensing law.

The bill was read second time.

Senator Brooks offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.H.B. 1963**, Section 9C in Section 4 of the bill to read as follows:

Sec. 9C. A person harmed by the failure of a hospital to timely adopt, implement, or enforce a patient transfer policy in accordance with Sections 5(b) and (d) of this Act may petition the district court of the county in which the person resides, or if the person is not a resident of the state, a district court of Travis County, for appropriate injunctive relief. Such person also may pursue remedies for civil damages existing under current common law.

The amendment was read and was adopted.

On motion of Senator Brooks and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 1963 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.H.B. 1963** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**LEGISLATIVE INTENT STATEMENT
BY SENATOR BROOKS**

The Floor Amendment No. 1 to C.S.H.B. 1963 that has been adopted for Section 9C is an agreement of all of the parties involved with the issue, namely the Texas Hospital Association and the Task Force on Indigent Care. The section will allow a person harmed by the failure of a hospital to adopt or enforce an effective patient transfer policy, to have these remedies available: (1) appropriate injunctive relief, and (2) the pursuit of existing remedies for civil damages under current common law.

It is most important for the Senate to understand that it is not intended by any of those who have been involved in the resolution of this issue that any new cause of action based upon an allegation of negligence per se is intended by this section to be available for use against a hospital. That is to say that the remedy available for civil damages are those civil remedies that currently exist under common law and that neither this section nor this statute intends to impose any new standard of care, or become the basis for a negligence per se cause of action. Those remedies that currently exist are those remedies that will be available to an aggrieved or injured person.

GUEST PRESENTED

The President introduced Mrs. Helen Farabee, Chairman of the Task Force on Indigent Health Care.

The Senate expressed appreciation to Mrs. Farabee for her tireless efforts relating to indigent health care for Texas.

HOUSE BILL 1023 ON SECOND READING

On motion of Senator Traeger and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1023, Relating to the provision of certain medical, educational, and associated services to eligible low-income women and infants.

The bill was read second time and was passed to third reading.

HOUSE BILL 1023 ON THIRD READING

Senator Traeger moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1023** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 37 ADOPTED**

Senator Brown called from the President's table the Conference Committee Report on S.B. 37. (The Conference Committee Report having been filed with the Senate and read on May 23, 1985.)

On motion of Senator Brown, the Conference Committee Report was adopted.

RECORD OF VOTES

Senators Mauzy and Washington asked to be recorded as voting "Nay" on the adoption of the Conference Committee Report on **S.B. 37**.

HOUSE BILL 740 ON SECOND READING

Senator Montford asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

H.B. 740, Relating to the appointment and certification of railroad peace officers, their duties and powers, the scope of their employment, and liability for their acts and omissions.

There was objection.

Senator Montford then moved to suspend the regular order of business and take up **H.B. 740** for consideration at this time.

The motion prevailed by the following vote: Yeas 23, Nays 4.

Yeas: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Jones, Kothmann, McFarland, Montford, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Williams.

Nays: Lyon, Mauzy, Parker, Washington.

Absent: Howard, Krier, Leedom, Whitmire.

The bill was read second time.

(Senator Sharp in Chair)

Question - Shall the bill be passed to third reading?

COMMITTEE SUBSTITUTE HOUSE BILL 48 ON SECOND READING

On motion of Senator Farabee and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.H.B. 48, Relating to the licensing of persons to practice law in this state; providing a penalty.

The bill was read second time.

Senator Krier offered the following amendment to the bill:

Amend **H.B. 48** on page 2, line 6, by deleting "\$20,000" and substituting in its place "\$15,000".

KRIER
BROWN

On motion of Senator Farabee, the amendment was tabled by the following vote: Yeas 19, Nays 11.

Yeas: Barrientos, Blake, Brooks, Caperton, Edwards, Farabee, Glasgow, Howard, Jones, Kothmann, Lyon, Mauzy, Montford, Parker, Santiesteban, Sarpalius, Truan, Uribe, Whitmire.

Nays: Brown, Harris, Henderson, Krier, McFarland, Parmer, Sharp, Sims, Traeger, Washington, Williams.

Absent: Leedom.

The bill was passed to third reading.

RECORD OF VOTES

Senators Krier, Sims and Washington asked to be recorded as voting "Nay" on the passage of the bill to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 48 ON THIRD READING

Senator Farabee moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.H.B. 48 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 4.

Yeas: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Lyon, McFarland, Mauzy, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Truan, Uribe, Whitmire, Williams.

Nays: Henderson, Krier, Traeger, Washington.

Absent: Leedom.

The bill was read third time and was passed.

RECORD OF VOTE

Senator Krier asked to be recorded as voting "Nay" on the final passage of the bill.

MESSAGE FROM THE HOUSE

House Chamber

May 24, 1985

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.C.R. 177, Congratulating the Texas Legislative Service for 60 years of service.

S.C.R. 175, Recognizing the work of the Texas Association of the Deaf.

H.C.R. 249, Commending the faculty, students, and administration of Oak High School.

H.C.R. 248, Congratulating Mark Thompson, Washington correspondent for the Fort Worth Star-Telegram.

S.C.R. 172, Commending the Public Safety Commission.

H.C.R. 230, Granting permission to Texas 4-H to use the chambers of the House of Representatives and Senate in the State Capitol on Wednesday, July 16, and Thursday, July 17, 1986, for its legislative seminar.

H.C.R. 233, Honoring Howard H. Miles, head track coach at Polytechnic High School in Fort Worth, Texas.

H.C.R. 225, Extending best wishes to Mr. Charles Boggess in his retirement.

H.C.R. 244, In Memory of Dr. Howard Clifton Bennett.

H.C.R. 243, Commending the House Post Office on its outstanding service.

H.C.R. 242, Congratulating the Austin College football team on winning the 1984 Texas Intercollegiate Athletic Association conference championship.

H.C.R. 240, Paying tribute to Lisa Ford for her athletic success.

H.C.R. 238, Honoring Dr. Norman Hackerman for his outstanding career.

S.C.R. 178, Congratulating the United Auto Workers on their 50th national anniversary and on their 40th Texas anniversary.

H.C.R. 252, Honoring Manuel B. Bravo.

H.C.R. 253, Directing the State Preservation Board to study construction of a Vietnam War memorial on the Capitol grounds.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

HOUSE BILL 740 ON SECOND READING

The Senate resumed consideration of **H.B. 740** on its second reading and passage to third reading.

Question - Shall the bill be passed to third reading?

Senator Washington offered the following amendment to the bill:

Amend **H.B. 740** to read as follows:

(1) Add Section (c)(4), line 48 as follows:

"The person has met all standards for certification as a peace officer by the Commission on Law Enforcement Officer Standards and Education.

The amendment was read and was adopted.

On motion of Senator Montford and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

RECORD OF VOTES

Senators Lyon, Mauzy, Parker and Washington asked to be recorded as voting "Nay" on the passage of the bill to third reading.

HOUSE BILL 740 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 740** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 4.

Yeas: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Montford, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Whitmire, Williams.

Nays: Lyon, Mauzy, Parker, Washington.

Absent: McFarland.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 4. (Same as previous roll call)

HOUSE BILL 393 ON SECOND READING

On motion of Senator Caperton and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 393, Relating to the payment by the state of certain expenses arising from the investigation and prosecution of an inmate of the Texas Department of Corrections for certain felonies.

The bill was read second time.

Senator Washington offered the following amendment to the bill:

Amend **H.B. 393** by striking Section 2, substituting the following, and renumbering Sections 3 and 4 as Sections 4 and 5:

SECTION 2. Article 26.055, Code of Criminal Procedure, 1965, is amended to read as follows:

Art. 26.055. CONTRIBUTION FROM STATE FOR DEFENSE OF CERTAIN PRISONERS

Sec. 1. A county in which a facility of the Texas Department of Corrections is located shall pay from its general fund only the first \$250 of the aggregate sum allowed and awarded by the court for attorneys' fees[, investigation, and expert testimony] under Article 26.05 toward defending a prisoner committed to that facility who is being prosecuted for an offense committed in that county while in the custody of the department if the prisoner was originally committed for an offense committed in another county.

Sec. 2. If the fees awarded for court-appointed counsel in a case covered by Section 1 of this article exceed \$250, the court shall certify the amount in excess of \$250 to the Comptroller of Public Accounts of the State of Texas. The comptroller shall issue a warrant to the court-appointed counsel in the amount certified to the comptroller by the court.

Sec. 3. (a) In the defense of a prosecution of an offense committed while the actor was a prisoner in the custody of the Texas Department of Corrections, the state shall reimburse a counsel appointed to defend the actor for expenses incurred by the counsel, in an amount that the court determines to be reasonable, for payment of:

(1) salaries and expenses of foreign language interpreters and interpreters for deaf persons whose services are necessary to the defense;

(2) consultation fees of experts whose assistance is directly related to the defense;

(3) travel expenses for witnesses;

(4) compensation of witnesses;

(5) the cost of preparation of a statement of facts and a transcript of the trial for purposes of appeal; and

(6) food, lodging, per diem, and travel expenses incurred by the defense counsel and staff during travel essential to the defense.

(b) The trial court shall certify the amount of reimbursement for expenses under this section to the Comptroller of Public Accounts of the State of Texas. The comptroller shall issue a warrant in that amount to the defense counsel or, if the comptroller determines that the amount certified by the trial court is unreasonable, in an amount that the comptroller determines to be reasonable.

SECTION 3. Section 3, Article 26.055, Code of Criminal Procedure, 1965, applies only to expenses incurred by a defense counsel on or after the effective date of this Act. Article 1036, Code of Criminal Procedure, 1925, applies only to the reimbursement of expenses incurred by a county on or after the effective date of this

Act, except that Section (h) applies to the reimbursement of expenses incurred in the prosecution of an offense for which the indictment was presented to or the information was filed with the court on or after September 1, 1983, and before August 31, 1985.

The amendment was read and was adopted.

On motion of Senator Caperton and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

HOUSE BILL 393 ON THIRD READING

Senator Caperton moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.B. 393 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE JOINT RESOLUTION 89 REREFERRED

On motion of Senator Farabee and by unanimous consent, H.J.R. 89 was withdrawn from the Committee on Health and Human Resources and rereferred to the Committee on State Affairs.

SENATE RULE 103 SUSPENDED

On motion of Senator Farabee and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on State Affairs might consider the following bills and resolutions today:

H.B. 1947
S.C.R. 176
H.J.R. 89
H.B. 1344

SENATE RULE 103 SUSPENDED

On motion of Senator Mauzy and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Jurisprudence might consider the following bills and resolutions today:

H.B. 788
H.B. 1037
H.B. 655
H.B. 2481
H.C.R. 131
H.C.R. 219

SENATE RULE 103 SUSPENDED

On motion of Senator Traeger and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Intergovernmental Relations might consider the following bills today:

H.B. 2478
H.B. 1879
H.B. 2517

H.B. 1172
H.B. 1343
H.B. 1657
H.B. 1481
H.B. 595
H.B. 2302
H.B. 1594

SENATE RULE 103 SUSPENDED

On motion of Senator Caperton and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Criminal Justice might consider H.B. 13 today.

SENATE RULE 103 SUSPENDED

On motion of Senator Santiesteban and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Natural Resources might consider H.B. 2502 today.

RECESS

On motion of Senator Mauzy, the Senate at 12:14 o'clock p.m. took recess until 2:00 o'clock p.m. today.

AFTER RECESS

The Senate met at 2:00 o'clock p.m. and was called to order by the President.

LEAVE OF ABSENCE

Senator Uribe was granted leave of absence for the remainder of today on account of important business on motion of Senator Caperton.

SENATE RULE 74a SUSPENDED

On motion of Senator Jones and by unanimous consent, Senate Rule 74a was suspended as it relates to the House amendment to S.B. 1435.

SENATE BILL 1435 WITH HOUSE AMENDMENT

Senator Jones called S.B. 1435 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.
Committee Amendment No. 1 - Williamson

Amend S.B. 1435 by striking all below the enacting clause and substituting in lieu thereof the following:

"SECTION 1. Sections 2, 9, 11, 12, 23, 24, 25, 26, and 28, Texas Public Building Authority Act (Article 601d, Vernon's Texas Civil Statutes), are amended to read as follows:

"Sec. 2. PURPOSE. The purpose of this Act is to provide a method of financing for the acquisition, construction, repair, renovation, or other improvement of buildings for the use of state agencies and institutions in Travis County, Texas, and of energy efficiency improvement projects for the exclusive use by those state agencies or institutions listed in Section 24 of this Act in various counties of the State of Texas.

"Sec. 9. ISSUANCE OF BONDS. The board may issue and sell bonds in the name of the authority to finance the acquisition, construction, repair, renovation, or other improvement of buildings for the use of state agencies and institutions in

Travis County, Texas, and energy efficiency improvement projects for the exclusive use of state agencies or institutions at the specific locations listed in Section 24 of this Act in various counties of the State of Texas.

"Sec. 11. SCOPE OF POWER. (a) The Board's authority under Section 9 of this Act is limited to the financing of a project and does not affect the authority of the State Purchasing and General Services Commission, or any other state agency or institution, to carry out its statutory authority, including its authority to construct buildings, relating to the project.

"(b) The State Purchasing and General Services Commission or other agency or institution involved shall carry out its statutory authority regarding a project financed under this Act as if the project were financed by legislative appropriation.

"(c) The board and the State Purchasing and General Services Commission or other agency or institution involved shall adopt a memorandum of understanding that defines the division of authority between the board and the commission or agency or institution to carry out the intent of this section.

"Sec. 12. MANNER OF REPAYMENT OF BONDS. (a) The board may provide for the payment of the principal of and interest on the bonds issued under Section 9 of this Act relating to a project [building]:

"(1) by pledging all or any part of the designated rents, issues, and profits from leasing the project [building] to the state through the State Purchasing and General Services Commission or occupying or using state agency or institution; or

"(2) from any other source of funds lawfully available to the board.

"(b) From funds appropriated for the purpose of paying utility expenses or rental charges on improvements acquired, constructed, renovated, or repaired under this Act, the State Purchasing and General Services Commission or occupying or using state agency or institution shall pay to the board an amount determined by the board to be sufficient to pay the principal of and interest on the bonds and to maintain any reserve funds required for servicing the debt.

"(c) The commission shall set the rents in amounts sufficient to provide the revenue required by the board.

"(d) All lease contracts entered into under this Act shall be subject to the appropriation by the legislature of funds necessary to cover the provisions of the lease, except that if at any time the state fails or refuses to pay the rental provided in such a lease contract or fails or refuses to renew an existing lease contract at a rental provided to be paid, the board may lease or sublease the property covered by the lease contract to any person or entity on terms that the board determines.

"(e) The board may lease space in projects constructed under this Act to any person or entity under the terms that the board determines if the space cannot be leased to the State Purchasing and General Services Commission or other state agency or institution.

"Sec. 23. BOND PROCEEDS. On issuance of bonds necessary to finance the projects authorized by this Act, the board shall certify to the agency or institution constructing the project [State Purchasing and General Services Commission] and to the comptroller of public accounts that the funds are available and shall deposit the bond proceeds in the state treasury to the account of the agency or institution constructing the project [State Purchasing and General Services Commission] for the specific projects. Once the funds are deposited and the comptroller of public accounts has certified that the funds are available and after transfer of reserve funds and capitalized interest as certified to be reasonably required by the authority and payment of the costs of issuance of the bonds upon receipt of a certificate of the authority specifying the costs, the agency or institution constructing the project [State Purchasing and General Services Commission] shall begin the projects, and the funds so deposited are appropriated to the agency or institution [State Purchasing and General Services Commission] for those purposes. The state

treasurer shall invest, with the concurrence of the board, the unexpended bond proceeds and investment income thereon, credited to the account of the State Purchasing and General Services Commission for the specific projects, in investments approved by law for the investment of state funds. Investment income needed for project costs as determined by the board shall be credited to the account of the State Purchasing and General Services Commission for the specific projects. Investment income not needed for project costs as determined by the board shall be credited to and accounted for in the state lease fund in the state treasury. Notwithstanding the provisions of Article 2543d, Revised Statutes, depository interest earned on the unexpended bond proceeds [funds] shall be credited to and accounted for in the state lease fund in the state treasury.

"Sec. 24. SPECIFIC PROJECTS. (a) The following projects are approved for financing under this Act:

(I) Buildings:

Project	Estimated Cost of Project
(1) Construction related to the Texas Youth Commission, Texas Rehabilitation Commission state office building	\$10,500,000
(2) Purchase and renovation of the Texas Employment Commission property	26,750,000
(3) Addition to Supreme Court Building and associated parking structure	55,177,000
(4) MTexas Education Agency Building renovation	5,385,000
(5) MAddition to State Library Records Storage Center	7,046,000
(6) Addition to Central Services Building	2,630,943
(7) John H. Winters Human Services Warehouse	4,705,000
(8) New office building at Texas Department of Health Complex	10,218,000
(9) Expansion of Texas Youth Commission, Texas Rehabilitation Commission	18,683,000
<u>Total</u>	<u>141,094,943</u>

(II) Energy Efficiency Improvement Projects:

Project	Estimated Cost of Project
(1) University of Houston	1,775,057
(2) Texas Woman's University	395,045
(3) East Texas State University	419,871
(4) University of Houston, Clear Lake	566,465
(5) Texas Tech University	479,014
(6) Texas Southern University	1,223,129
(7) Texas Tech Health Science Center (Lubbock)	587,724
(8) Texas A&I University	577,700
(9) Prairie View A&M	901,860
(10) Texas Department of Health	530,100
(11) Midwestern University	479,000
(12) Texas Department of MHMR <u>Total</u>	<u>\$11,820,952</u>

"(b) In recognition that the amounts herein are estimated and that bonds may be issued to fund associated costs, including but not limited to reasonably required reserve funds, capitalized interest, administrative costs of the authority, and issuing expenses, the principal amount of any bond issue may be one and one-half the amount of the estimated cost for the project(s) being financed.

"Sec. 25. RENT AND FEES. The appropriate state agency or institution [State Purchasing and General Services Commission] shall establish schedules

necessary to properly charge state agencies occupying or using projects authorized by this Act for the expenses incurred in financing the project. Using state agencies shall pay to the appropriate state agency or institution [~~State Purchasing and General Services Commission~~] from all funds appropriated to the agency for those purposes, in their proper proportion, the amount determined by the state agency or institution [~~State Purchasing and General Services Commission~~] as the necessary payment for the period or periods the agency or institution [~~commission~~] has determined the payments are due. Payments received by the agency or institution [~~commission~~] under this section shall be deposited to the credit of the appropriate [~~state lease~~] fund. The legislature may, in the alternative, provide for direct appropriation of the necessary funds for using agencies to the appropriate [~~state lease~~] fund.

"Sec. 26. STATE LEASE FUND. The state lease fund created by Article II, Chapter 700, Acts of the 68th Legislature, Regular Session, 1983 (Article 601c, Vernon's Texas Civil Statutes), may be used to finance appropriations to the State Purchasing and General Services Commission or other state agencies or institutions for payment of rents and fees to the authority. In addition, the legislature may transfer funds on deposit in the state lease fund to the Texas capital trust fund [~~General Revenue Fund~~] for such other purposes as the legislature may determine after all bonds have been duly paid or provided for.

"Sec. 28. CONVEYANCE OF PROPERTY. (a) When the principal of and interest on bonds relating to a project financed under this Act are paid in full and the building involved in the project is free of all liens, the board shall certify to the State Purchasing and General Services Commission or occupying or using state agency or institution that rentals are no longer required to service the bond debt.

(b) On making the determination called for in Subsection (a) of this section, the board shall, for the sum of \$1.00, convey title of the completed project, including any real property involved in the project, to the State Purchasing and General Services Commission or designated occupying or using state agency or institution.

"SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted."

The amendment was read.

Senator Jones moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 1435 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Jones, Chairman; Blake, Krier, McFarland and Montford.

REPORTS OF STANDING COMMITTEES

By unanimous consent, Senator Farabee submitted the following report for the Committee on State Affairs:

H.B. 1947

S.C.R. 176

H.B. 1344

H.J.R. 89

By unanimous consent, Senator Caperton submitted the following report for the Committee on Criminal Justice:

H.B. 13

H.B. 2278 (Amended)

GUEST PRESENTED

The President presented The Honorable Charles Stenholm, Member of the Texas Congressional delegation representing the 17th Congressional District.

SENATE RULE 74a SUSPENDED

On motion of Senator Parker and by unanimous consent, Senate Rule 74a was suspended as it relates to the House amendment to S.B. 969.

SENATE BILL 969 WITH HOUSE AMENDMENT

Senator Parker called S.B. 969 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.
Committee Amendment No. 1 - Patronella

Amend S.B. 969 on page 7 by striking lines 21-25 and substituting the following: "mortgagor" may include:

(A) a person or persons whose adjusted gross aggregate income exceeds the amount constituting moderate income if at least 90 percent of the total mortgage amount available under a home mortgage revenue bond issue is designated for persons of low or moderate income; or

(B) a person or persons permitted to be a mortgagor under Section 103A of the Internal Revenue Code of 1954, as amended, as it applies to those areas or communities.

The amendment was read.

Senator Parker moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Uribe.

HOUSE BILL 1191 ON SECOND READING

Senator Truan moved to suspend the regular order of business to take up for consideration at this time:

H.B. 1191, Relating to credit in the Employees Retirement System of Texas for certain service performed by persons who became highway department employees.

The motion prevailed by the following vote: Yeas 20, Nays 6.

Yeas: Barrientos, Blake, Brooks, Caperton, Edwards, Farabee, Harris, Henderson, Howard, Jones, Kothmann, McFarland, Mauzy, Montford, Parker, Parmer, Santiesteban, Sims, Truan, Whitmire.

Nays: Brown, Glasgow, Krier, Lyon, Sharp, Traeger.

Absent: Leedom, Sarpalius, Washington, Williams.

Absent-excused: Uribe.

The bill was read second time and was passed to third reading.

RECORD OF VOTE

Senator Traeger asked to be recorded as voting "Nay" on the passage of the bill to third reading.

MOTION TO PLACE HOUSE BILL 1191 ON THIRD READING

Senator Truan moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.B. 1191 be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 21, Nays 6. (Not receiving four-fifths vote of Members present)

Yeas: Barrientos, Blake, Brooks, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, McFarland, Mauzy, Montford, Parker, Parmer, Santiesteban, Sims, Truan, Whitmire.

Nays: Brown, Krier, Lyon, Sharp, Traeger, Washington.

Absent: Leedom, Sarpalius, Williams.

Absent-excused: Uribe.

HOUSE CONCURRENT RESOLUTION 156 ON SECOND READING

Senator Washington moved to suspend the regular order of business to take up for consideration at this time:

H.C.R. 156, Establishing the Joint Special Committee on the Family Role in Reducing Recidivism.

The motion prevailed by the following vote: Yeas 26, Nays 1.

Nays: Brown.

Absent: Leedom, Sarpalius, Williams.

Absent-excused: Uribe.

The resolution was read second time and was adopted.

RECORD OF VOTE

Senator Howard asked to be recorded as voting "Nay" on the adoption of the resolution.

COMMITTEE SUBSTITUTE HOUSE BILL 271 ON SECOND READING

On motion of Senator Parker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 271, Relating to the transportation and regulation of manufactured housing; declaring an emergency.

The bill was read second time.

Senator McFarland offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.H.B. 271** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Paragraph D. of Article 6701-1/2, Revised Statutes, is amended to read as follows:

"D. ~~[There shall also accompany the application for permit a]~~ A fee of Ten Dollars (\$10) ~~[, which fee]~~ for each permit shall be collected by the State Department of Highways and Public Transportation and deposited in the Treasury of the State of Texas to the credit of the State Highway Fund. ~~[Said fee shall be paid by cashiers or certified check, postal or express money order.]~~ On application said department shall issue permit books or packets containing twenty (20) ~~[fifty (50) or one hundred (100)]~~ individual permits provided that the aggregate fee of Ten Dollars (\$10) per permit is received with such application. The book type permit can be used for the movement of any manufactured home regardless of width, length or height, and route approval can be secured by telephone from the issuing office along with any required validation number for the permit."

SECTION 2. Section 158.002, Subchapter A, Chapter 158, Subtitle E, Title 2, Tax Code is amended to read as follows:

"Section 158.002. Definitions. In this chapter, 'manufactured home', 'manufacturer', 'retailer', and 'person' have the same meanings as they are given by the Texas Manufactured Housing Standards Act, as amended (Article 5221f, Vernon's Texas Civil Statutes). In addition, the term 'manufactured home' also includes and means 'industrialized housing' as defined by Article 5221f-1, Vernon's Texas Civil Statutes."

SECTION 3. Subdivision (1), Subsection (c), Section 3, Chapter 42, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6701d-11, Vernon's Texas Civil Statutes), is amended by striking and deleting the term "mobile home" and substituting therefor the term "house trailer".

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read and was adopted.

Senator McFarland offered the following amendment to the bill:

Floor Amendment No. 2

Amend the caption of C.S.H.B. 271 to read as follows:

**A BILL TO BE ENTITLED
AN ACT**

relating to the transportation, taxation and regulation of manufactured and industrialized housing.

The amendment was read and was adopted.

The bill as amended was passed to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 271 ON THIRD READING

Senator Parker moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.H.B. 271 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Uribe.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Uribe.

HOUSE BILL 1543 ON SECOND READING

On motion of Senator Howard and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1543, Relating to the assignment and transfer of students to schools within a school district.

The bill was read second time.

Senator Howard offered the following amendment to the bill:

Floor Amendment No. 1

Amend **H.B. 1543** by striking all below the enacting clause and substituting the following:

SECTION 1. The legislature finds that discipline problems in the public schools, as well as the problems of crime, drug abuse, alcohol abuse, and suicide among school-age children, are increased by the splitting of peer groups among various schools as those groups advance from school to school within a school district. The purpose of this Act is to reduce the effect on those problems of school assignment within a district.

SECTION 2. Subchapter C, Chapter 21, Education Code, is amended by adding Section 21.0751 to read as follows:

Sec. 21.0751. ASSIGNMENT OF FEEDER SCHOOL POPULATIONS; RIGHT TO TRANSFER. (a) In addition to considering the factors listed in Section 21.075(a) of this code, each district shall attempt to assign all the students of an elementary school to a single middle or junior high school, and all the students of a junior high or middle school to a single high school.

(b) If fewer than 30 percent of the students advancing from an elementary school are assigned to any single middle or junior high school, or if fewer than 30 percent of the students advancing from a middle or junior high school are assigned to any single high school, a student who is not assigned to the school to which the largest percentage is assigned is entitled to transfer to that school. In addition, if fewer than 100 percent of the students of a middle or junior high school who attended a particular elementary school are assigned to any single high school, a student who attended that elementary school is entitled to transfer to the high school to which the largest percentage of those students was assigned. To exercise the right to transfer, the student's parent or other person having lawful control of the student must request the transfer in writing in accordance with the reasonable rules of the district.

(c) The percentage of students assigned to a school does not include, and the right to transfer does not apply to, a student whose school assignment changes as a result of change in residence by the student.

(d) A district may deny a transfer under this section only on a finding by a court that the transfer of the student from one school to another would violate the desegregation requirements imposed under federal law that are applicable to either school.

(e) A district is not required to provide transportation for a student who exercises the right of transfer under this section unless the student would otherwise be eligible for transportation under the district's transportation plan.

(f) This section does not apply to the assignment of students to the high schools of a district if:

(1) the district's high schools are located on a single parcel of property;

(2) the district assigns students to those high schools through random selection; and

(3) the district provides for transfers between the schools in accordance with other law and local policy.

SECTION 3. Section 21.074, Education Code, is amended by adding Subsection (d) to read as follows:

(d) A transfer or change in assignment of a pupil is not effective until the 20th day after the date notice of the proposed transfer or assignment is given to the parent or the person standing in parental relation to the pupil. The notice must be mailed to the parent or person standing in parental relation and must inform the recipient of the right under Sections 21.077 and 21.078 of this code to file a written objection to the transfer or assignment and of the right to request a hearing. This subsection does not apply to a transfer or change in assignment made on request of the parent or person standing in parental relation or to a transfer or change in assignment resulting from a change in the pupil's residence.

SECTION 4. (a) Except as otherwise provided by this section, this Act applies beginning with the fall semester, 1985. Each school district shall adopt reasonable policies and procedures that provide for exercise of the right of transfer for that semester. A district may not require transfer requests for that semester to be filed before August 1, 1985.

(b) For the 1985-1986 and 1986-1987 school years, on application of a school district the commissioner of education may except one or more schools of the district from the requirements of Section 21.0751, Education Code, as added by this Act, if the district demonstrates in regard to those individual schools a major shortage of facilities, a major increase in transportation costs, or other unusual and extreme expenditures in order to comply with that section. The school district must request the exception, and the commissioner must grant or deny the exception, before the August 1 immediately preceding the school year for which the exception is requested. A district that is granted an exception shall report to the commissioner the number of students advancing from each elementary school to any single middle or junior high school and the percentage of students advancing from a middle or junior high school to any single high school in each year for which an exception is granted.

(c) For a school district that for the 1985-1986 school year will operate fewer junior high schools and fewer high schools than it operated for the 1984-1985 school year, this Act applies beginning with the 1986-1987 school year.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Washington offered the following amendment to Floor Amendment No. 1 to the bill:

Floor Amendment No. 2

Amend **H.B. 1543** by striking Subsection (d) of Section 21.0751, Education Code, as added in Section 2 of the bill, and substituting the following:

(d) Except as provided by this subsection, a district may deny a transfer under this section only on a finding by a court that the transfer of the student from one

school to another would violate desegregation requirements imposed under federal law that are applicable to the school. A district may deny a transfer under this section in order to preserve a voluntary desegregation program, such as a magnet school, if granting the transfer would result in the displacement of a student who had previously requested assignment and been assigned to that school under the voluntary program, and for that purpose the school district may consider and approve those assignments before acting on requests for transfer under this section.

The amendment was read and was adopted.

Floor Amendment No. 1 as amended was adopted.

On motion of Senator Howard and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

RECORD OF VOTES

Senators Kothmann, Mauzy and Sims asked to be recorded as voting "Nay" on the passage of the bill to third reading.

LEAVE OF ABSENCE

Senator Williams was granted leave of absence for remainder of today on account of important business on motion of Senator Montford.

HOUSE BILL 1543 ON THIRD READING

Senator Howard moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.B. 1543 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 20, Nays 5.

Yeas: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Glasgow, Harris, Henderson, Howard, Jones, Krier, Leedom, McFarland, Montford, Parker, Santiesteban, Sims, Truan, Whitmire.

Nays: Kothmann, Mauzy, Parmer, Traeger, Washington.

Absent: Farabee, Lyon, Sarpalius, Sharp.

Absent-excused: Uribe, Williams.

The bill was read third time and was passed by the following vote: Yeas 21, Nays 6.

Yeas: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Krier, McFarland, Montford, Parker, Parmer, Santiesteban, Sharp, Washington, Whitmire.

Nays: Kothmann, Leedom, Mauzy, Sims, Traeger, Truan.

Absent: Lyon, Sarpalius.

Absent-excused: Uribe, Williams.

SENATE RULE 74a SUSPENDED

On motion of Senator Leedom and by unanimous consent, Senate Rule 74a was suspended as it relates to House amendments to S.B. 410.

SENATE BILL 410 WITH HOUSE AMENDMENTS

Senator Leedom called **S.B. 410** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.
Committee Amendment No. 1 - Wright

Substitute the following for **S.B. 410**:

**A BILL TO BE ENTITLED
AN ACT**

relating to the licensing of hospitals and to construction plan approval; providing authority to the Texas Board of Health to charge fees for hospital construction plan reviews and surveys; amending Section 5 and adding Section 7A, Texas Hospital Licensing Law (Article 4437f, Vernon's Texas Civil Statutes).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 5, Texas Hospital Licensing Law, as amended (Article 4437f, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 5. The Licensing Agency, with the advice of the Hospital Licensing Advisory Council, shall adopt, amend, promulgate, and enforce such rules, regulations, and minimum standards as may be designed to further the purposes of this Act. Provided, however, that the rules, regulations, or minimum standards so adopted, amended, promulgated, or enforced shall be limited to minimum requirements for staffing by physicians and nurses, other hospital services relating to patient care, and to safety, fire prevention, and sanitary provisions of hospitals as defined in this Act. Provided, however, that this section does not authorize the board to establish the qualifications of licensed practitioners or permit the board to authorize persons to provide health care services who are not authorized to provide those services under other state laws, and provided further that any rules, regulations, or standards set shall first be adopted [approved] by the Texas [State] Board of Health in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes); and such standards shall not exceed the minimum standards for certification under Title XVIII of the Social Security Act, as added July 30, 1965 (Public Law 89-97) [-and after they have been so approved, shall be approved also by the Attorney General as to their legality, and then filed with the Secretary of State, and no such rule or regulation shall be effective until it has been filed with the Secretary of State].

"The Commissioner of Health shall appoint, with the advice and consent of the Texas [State] Board of Health, a person to serve in the capacity of Hospital Licensing Director. The duties of such Hospital Licensing Director shall be the administration of this Act and he shall be directly responsible to the Licensing Agency. Any person so appointed as Hospital Licensing Director must possess the following qualifications: He shall have had at least five (5) years experience or [and/or] training in the field of hospital administration, be of good moral character, and a resident of the State of Texas for a period of not less than three (3) years."

SECTION 2. The Texas Hospital Licensing Law (Article 4437f, Vernon's Texas Civil Statutes) is amended by adding Section 7A to read as follows:

"Section 7A. Hospital Construction Plan Approval. (a) Any person or governmental unit contemplating the construction of a hospital building, the conversion of a building to a hospital, or the addition to or alteration of a hospital building may submit plans and specifications to the Licensing Agency for its review prior to construction in accordance with rules adopted by the Texas Board of Health.

"(b) The Licensing Agency may conduct field surveys in order to determine compliance with construction plans and specifications reviewed under this section.

"(c) The Texas Board of Health shall adopt a fee schedule by rule for hospital plan reviews which is based on the estimated construction cost. If an estimated construction cost cannot be established, the estimated cost shall be based on \$105 per square foot. If a hospital undertakes a series of small projects, the estimated construction cost shall be accumulated over a 12-month period from the date of submitting the plans to the Licensing Agency for review. The fee schedule adopted shall not exceed the following:

	<u>Cost of Construction</u>	<u>Fee</u>
(1)	<u>Less than \$150,000</u>	<u>\$ 50</u>
(2)	<u>\$150,001-\$600,000</u>	<u>150</u>
(3)	<u>\$600,001-\$2,000,000</u>	<u>350</u>
(4)	<u>\$2,000,001-\$5,000,000</u>	<u>500</u>
(5)	<u>\$5,000,001-\$10,000,000</u>	<u>750</u>
(6)	<u>\$10,000,001 and over</u>	<u>1,000</u>

"(d) The Texas Board of Health shall adopt a fee schedule by rule for field surveys of construction plans reviewed under this section which shall be no less than \$100 and no more than \$300 for each survey conducted."

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment No. 1 - Wright

Amend C.S.S.B 410 by inserting a new Section 2 thereof, and renumbering the remaining sections accordingly, to read as follows:

"SECTION 2. Section 17, Texas Hospital Licensing Law (Article 4437f, Vernon's Texas Civil Statutes), is amended to read as follows:

"Sec. 17. (a) Except or otherwise provided in this section, no [No] provision or provisions of this Act shall in any way change, or modify, the authority or power of the Board of Managers, Board of Trustees, Board of Directors, or Governing Body of any hospital, as that term is defined herein, to make such rules, standards, or qualifications for medical staff ["Medical Staff"] membership, as they in their sole discretion may deem necessary or advisable, or to grant or refuse membership on such medical staff. ["Medical Staff."]

"(b) By-laws adopted by the medical staff of a hospital and approved or adopted by the governing board of the hospital after the effective date of this act shall be binding upon both the medical staff and the hospital administration and governing board for a period of time not to exceed five years. Such by-laws may provide: (1) for amendment upon agreement of both the medical staff and governing board; or (2) that such by-laws shall be binding upon both parties for a period of time of less than five years."

The amendments were read.

Senator Leedom moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 410 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Leedom, Chairman; Harris, Sims, Henderson, Howard.

**CONFERENCE COMMITTEE REPORT
SENATE BILL 632**

Senator Brooks submitted the following Conference Committee Report:

Austin, Texas
May 24, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.B. 632 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

BROOKS

URIBE

TRUAN

BARRIENTOS

SHARP

On the part of the Senate

MADLA

SHORT

OLIVER

McDONALD

LEE

On the part of the House

**A BILL TO BE ENTITLED
AN ACT**

relating to the licensing and regulation of psychologists; amending the Psychologists' Certification and Licensing Act, as amended (Article 4512c, Vernon's Texas Civil Statutes), by amending Sections 2, 7, 8, 9, 11, 16, 21, and 22 and Subsection (a), Section 17 and Subsections (a), (e), and (f), Section 23.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 2. DEFINITIONS. In this Act, unless the context otherwise requires:

"(a) 'Board' means the Texas State Board of Examiners of Psychologists provided for by this Act.

"(b) A person represents himself to be a 'psychologist' within the meaning of this Act when he holds himself out to the public by any title or description of services incorporating the words 'psychological,' 'psychologists,' or 'psychology,' or [~~offers to render or~~] renders or offers to render psychological services to individuals, groups, organizations [~~corporations~~], or the public [~~for compensation~~].

"(c) The term 'psychological services,' means acts or behaviors coming within the purview of the practice of psychology. The practice of psychology is an offering to the public or rendering to individuals or groups any service, including computerized procedures, that involves but is not restricted to the application of established principles, methods, and procedures of describing, explaining, and ameliorating behavior. The practice of psychology addresses normal behavior and the evaluation, prevention, and remediation of psychological, emotional, mental, interpersonal, learning, and behavioral disorders of individuals and groups, as well as the psychological concomitants of medical problems, organizational structures, stress, and health. The practice of psychology is based on a systematic body of knowledge and principles acquired in an organized program of graduate study and on the standards of ethics established by the profession[, including, but not limited to, the application of psychological principles to the evaluation and remediation of learning, emotional, interpersonal, and behavioral disorders]."

SECTION 2. Section 7, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 7. ORGANIZATION AND MEETINGS OF THE BOARD. The Board shall hold a regular annual meeting at which it shall select from its members a chairperson and a vice-chairperson [~~Chairman and a Vice-Chairman~~]. Other regular meetings shall be held at such times as the rules of the Board may provide but not less than two times a year. Special meetings may be held at such times as may be deemed necessary or advisable by the Board or a majority of its members. Reasonable notice of all meetings shall be given in the manner prescribed by the rules of the Board. A quorum of the Board shall consist of a majority of its members. The executive director [~~Secretary~~] of the Board shall be employed [~~appointed~~] by the Board and shall hold that position [~~office~~] at the pleasure of the Board. [~~The Secretary may or may not be a member of the Board.~~] The Board may employ such other persons as it deems necessary or desirable, including investigators, lawyers, consultants, and administrative staff, to carry out the provisions of this Act. The Board shall adopt and have an official seal."

SECTION 3. Section 8, Psychologists' Certification and Licensing Act, as amended (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 8. POWERS AND DUTIES OF THE BOARD. (a) In addition to the powers and duties granted the Board by other provisions of this Act, the Board may make all rules, not inconsistent with the Constitution and laws of this state, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it. The Board shall adopt and publish a Code of Ethics. The Board may not adopt rules that govern the activities, services, or training of a person who is exempted under Section 22 of this Act. The Board may not adopt rules relating to the administration of an agency that is not subject to this Act, but may cooperate with those agencies in formulating voluntary guidelines to be observed in the training, activities, and supervision of persons who perform psychological services.

"(b) The Board may certify the specialty of [~~specialties within the field of psychological services and may employ consultants when necessary for the implementation of this Act. The Board shall adopt rules applicable to the certification of specialties and to the employment of consultants. Specialty certifications by the Board may include certifications for clinical psychologists, counseling psychologists, industrial psychologists, school psychologists, and psychologists designated as] health service provider [~~providers~~].~~

"(c) The Board shall prepare information of consumer interest describing the regulatory functions of the Board and describing the Board's procedures by which consumer complaints are filed with and received by the Board. The Board shall make information available to the general public and appropriate state agencies.

"(d) Each written contract for services in this state of a licensed or certified psychologist must contain the name, mailing address, and telephone number of the Board.

"(e) There shall at all times be prominently displayed in the place of business of each licensee regulated under this Act a sign containing the name, mailing address, and telephone number of the Board and a statement informing consumers that complaints against licensees can be directed to the Board.

"(f) The Board shall keep an information file about each complaint filed with the Board relating to a licensee.

"(g) If a written complaint is filed with the Board relating to a licensee, the Board at least as frequently as quarterly and until final disposition of the complaint shall notify the parties to the complaint of the status of the complaint unless the notification would jeopardize an undercover investigation.

“(h) The Board may not adopt rules restricting competitive bidding or advertising by a person regulated by the Board except to prohibit false, misleading, or deceptive practices by the person. The Board may not include in its rules to prohibit false, misleading, or deceptive practices by a person regulated by the Board a rule that:

“(1) restricts the person’s use of any medium for advertising;

“(2) restricts the person’s personal appearance or use of his personal voice in an advertisement;

“(3) relates to the size or duration of an advertisement by the person; or

“(4) restricts the person’s advertisement under a trade name.

“(i) The Board may order corrective advertising if a psychologist, individually or under an assumed name, engages in false, misleading, or deceptive advertising.

“(j) [(i)] The Board may recognize, prepare, or administer continuing education programs for persons regulated by the Board under this Act. Participation in the programs is voluntary.

“(k) [(j)] The Board shall develop an intraagency career ladder program, one part of which shall be the intraagency posting of each job opening with the Board in a nonentry level position. The intraagency posting shall be made at least 10 days before any public posting is made.

“(l) [(k)] The Board shall develop a system of annual performance evaluations of the Board’s employees based on measurable job tasks. Any merit pay authorized by the Board shall be based on the system established under this subsection.

“(m) [(l)] The Board is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon’s Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon’s Texas Civil Statutes).”

SECTION 4. Section 9, Psychologists’ Certification and Licensing Act (Article 4512c, Vernon’s Texas Civil Statutes), is amended to read as follows:

“Section 9. RECEIPTS AND DISBURSEMENTS. The executive director [Secretary] of the Board shall receive the account for all monies derived under this Act. The executive director [He] shall pay these monies weekly to the State Treasurer who shall keep them in a separate fund to be known as the ‘Psychologists Licensing Fund.’ Monies may be paid out of this fund only by warrant drawn by the State Comptroller upon the State Treasurer, upon itemized voucher, approved by the chairperson [Chairman] of the Board or the executive director [and attested by the Secretary] of the Board. There shall be an annual audit of the Psychologists Licensing Fund by the Auditor of the State of Texas. The executive director [Secretary] of the Board shall give a surety bond for the faithful performance of his duties to the governor in the sum of Ten Thousand Dollars (\$10,000.00) or an amount recommended by the State Auditor. The premium for this bond shall be paid out of the Psychologists Licensing Fund. The Board may make expenditures from this fund for any purpose which is reasonably necessary to carry out the provisions of this Act.”

SECTION 5. Section 11, Psychologists’ Certification and Licensing Act, as amended (Article 4512c, Vernon’s Texas Civil Statutes), is amended to read as follows:

“Section 11. QUALIFICATION OF APPLICANT FOR EXAMINATION FOR CERTIFICATION. An applicant is qualified to take the examination for certification as a psychologist if:

“(1) the applicant [(a) if he] has received the doctoral degree based upon a program of studies whose content was primarily psychological or its substantial equivalent in both subject matter and extent of training from a regionally accredited educational institution,

"(2) the applicant ~~[(b) if he]~~ has attained the age of majority,

"(3) the applicant ~~[(c) if he]~~ is of good moral character,

"(4) ~~[(d) if]~~ in the judgment of the Board, the applicant ~~[he]~~ is physically and mentally competent to render psychological services with reasonable skill and safety ~~[to his patients]~~ and is afflicted with no disease or condition, either mental and physical, which would impair ~~[his]~~ competency to render psychological services, and

"(5) the applicant ~~[(e) if he]~~ has not been convicted of a felony or a crime involving moral turpitude, does not use ~~[has not used]~~ drugs or intoxicating liquors to an extent that affects the applicant's ~~[would affect his]~~ professional competency, has not been guilty of fraud or deceit in making the ~~[his]~~ application, or has not aided or abetted a person, not a licensed psychologist, in representing that person ~~[himself]~~ as a psychologist in this state."

SECTION 6. Section 16, Psychologists' Certification and Licensing Act, as amended (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 16. FEES. The fees shall be fixed by the Board in amounts that are reasonable and necessary to cover the costs of administering this Act. ~~[not to exceed:~~

~~[1. Certification application:~~

~~[a. Doctoral level~~ \$105

~~[b. Master's level~~ 90

~~[2. Examination~~ 120

~~[3. Jurisprudence examination~~ 20

~~[4. Licensure application~~ 75

~~[5. Certification renewal:~~

~~[a. Doctoral level~~ 25

~~[b. Master's level~~ 25

~~[6. License renewal~~ 70

~~[7. Health Service Provider application~~ 55

~~[8. Health Service Provider renewal~~ 10

~~[9. Inactive status~~ 10]

The Board shall not maintain unnecessary fund balances, and fee amount shall be set in accordance with this requirement."

SECTION 7. Subsection (a), Section 17, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

"(a) The Board shall issue a certificate to each person whom it certifies and a license to those persons licensed. The certificate or license shall show the full name of the psychologist ~~[and his address]~~ and shall bear a serial number. The certificate or license shall be signed by the chairperson ~~[Chairman]~~ and the executive director ~~[Secretary]~~ of the Board under the seal of the Board."

SECTION 8. Section 21, Psychologists' Certification and Licensing Act, as amended (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 21. LICENSING. (a) Any person who offers psychological services as defined herein for compensation, must apply to the Board and upon payment of a fee shall be granted a license by the Board. No person may be licensed unless:

"(1) the person ~~[he]~~ is certified as a psychologist under the authority of this Act; and

"(2) the person ~~[he]~~ has had at least two years of supervised ~~[years']~~ experience in the field of psychological services, one year of which may be part of the doctoral program and ~~at least one year of which was after the person's doctoral degree was conferred[, and one of which was under the supervision of a licensed psychologist].~~

“(b) For the purposes of Subdivision (2) of Subsection (a) of this section, experience is supervised only if it is supervised by a licensed psychologist in the manner provided by the Board’s supervision guidelines.”

SECTION 9. Section 22, Psychologists’ Certification and Licensing Act, as amended (Article 4512c, Vernon’s Texas Civil Statutes), is amended to read as follows:

“Section 22. EXEMPTIONS. Nothing in this Act shall be construed to apply to:

“(a) the activities, services and use of official title on the part of a person employed as a psychologist by any: (1) governmental agency, (2) public school district, or (3) regionally accredited institution of higher education [~~or any hospital licensed by the Texas State Department of Health, including medical clinics associated with such hospitals and are organized as an unincorporated association,~~] provided such employee is performing those duties for which he is employed by such agency, district, or institution[~~, or clinic~~] and within the confines of such agency, district, or institution[~~, or clinic~~] insofar as such activities and services are a part of the duties of his office or position as a psychologist with such agency, district, or institution[~~, or clinic~~]; except that persons employed as psychologists who offer or provide psychological services to the public (other than lecture services) for a fee, monetary or otherwise, over and above the salary that they receive for the performance of their regular duties, and/or persons employed as psychologists by organizations that sell psychological services to the public (other than lecture services) for a fee, monetary or otherwise must be licensed under the provisions of this Act;

“(b) the activities and services of a student, intern or resident in psychology, pursuing a course of study in preparation for the profession of psychology under qualified supervision in recognized training institutions or facilities, if these activities and services constitute a part of his supervised course of study, provided that such an individual is designated by a title such as ‘psychological intern,’ ‘psychological trainee,’ or others clearly indicating such training status;

“(c) the activities and services of members of other professional groups licensed, certified, or registered by this state, Christian Scientist practitioners who are duly recognized by the Church of Christ Scientist as registered and published in the Christian Science Journal, or duly ordained religions doing work of a psychological nature consistent with their training and consistent with any code of ethics of their respective professions, provided that they do not represent themselves by any title or in any manner prohibited by this Act;

“(d) persons, other than psychologists licensed or certified under this Act, who hold themselves out to the public as marriage and family therapists or counselors and who provide counseling exclusively related to marriage and family concerns and who hold a master’s or doctoral degree in the area of marriage and family therapy from a college or university accredited under a system utilized by the Texas College Coordinating Board and who abide by a code of ethics recognized by their profession.”

SECTION 10. Subsections (a), (e), and (f), Section 23, Psychologists’ Certification and Licensing Act, as amended (Article 4512c, Vernon’s Texas Civil Statutes), are amended to read as follows:

“(a) The Texas State Board of Examiners of Psychologists shall have the right to cancel, revoke, suspend, or refuse to renew the license or certification of any psychologist or the certificate of any psychological associate or reprimand any psychologist upon proof that the psychologist:

“(1) has been convicted of a felony or of a violation of the law involving moral turpitude by any court; the conviction of a felony shall be the conviction of any offense which if committed within this state would constitute a felony under the laws of this state; or

"(2) ~~uses~~ [used] drugs or intoxicating liquors to an extent that affects his professional competency; or

"(3) has been guilty of fraud or deceit in connection with his services rendered as a psychologist; or

"(4) has aided or abetted a person, not a licensed psychologist, in representing himself as a psychologist within this state; or

"(5) has been guilty of unprofessional conduct as defined by the rules established by the Board; or

"(6) for any cause for which the Board shall be authorized to take that action by another section of this Act.

~~"[The Board shall have the right to order corrective advertising when a psychologist, individually or under his assumed name, engages in false, misleading, or deceptive advertising.]"~~

"(e) The Board shall have the right and may, upon majority vote, rule that the order revoking, cancelling, or suspending the psychologist's ~~[psychologists']~~ license or certification be probated so long as the probationer conforms to such orders and rules as the Board may set out as the terms of probation. The Board, at the time of probation, shall set out the period of time which shall constitute the probationary period. Provided further, that the Board may at any time while the probationer remains on probation hold a hearing, and upon majority vote, rescind the probation and enforce the Board's original action in revoking, cancelling, or suspending the psychologist's ~~[psychologists']~~ license or certification, the said hearing to rescind the probation shall be called by the chairperson ~~[Chairman]~~ of the Texas State Board of Examiners of Psychologists who shall cause to be issued a notice setting a time and place for the hearing and containing the charges or complaints against the probationer, said notice to be served on the probationer or the probationer's ~~[his]~~ counsel at least ten (10) days prior to the time set for the hearing. When personal service is impossible, or cannot be effected, the same provisions for service in lieu of personal service as heretofore set out in this Act shall apply. At said hearing the respondent shall have the right to appear either personally or by counsel or both, to produce witnesses or evidence in the ~~[his]~~ behalf of the respondent, to cross-examine witnesses, and to have subpoenas issued by the Board. The Board shall thereupon determine the charges upon their merits. All charges, complaints, notices, orders, records, and publications authorized or required by the terms of this Act shall be privileged. The order revoking or rescinding the probation shall not be subject to review or appeal.

"(f) On application, the Board may reissue a certificate ~~[recertify the applicant]~~ or [reissue] a license to a person whose certificate or license has been cancelled or ~~[;]~~ revoked~~[, or suspended]~~. Such an application ~~[However, in the case of cancellation or revocation, the application]~~ may not be made before the expiration of one year after the date of the cancellation or revocation or a period determined by ~~[and must be made in the manner and form as]~~ the Board ~~[may require]~~."

SECTION 11. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 1985.

(b) The amendment by Section 8 of this Act of Section 21, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), takes effect September 1, 1987.

SECTION 12. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

HOUSE BILL 1627 ON THIRD READING

Senator Jones moved to suspend the regular order of business to take up on third reading and final passage:

H.B. 1627, Relating to tax credits for the sale or use of mixtures of motor fuel and alcohol.

The motion prevailed by the following vote: Yeas 20, Nays 8.

Yeas: Blake, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, McFarland, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Whitmire.

Nays: Barrientos, Lyon, Mauzy, Montford, Parker, Parmer, Truan, Washington.

Absent: Brooks.

Absent-excused: Uribe, Williams.

The bill was read third time and was passed.

RECORD OF VOTES

Senators Lyon, Mauzy and Truan asked to be recorded as voting "Nay" on the final passage of the bill.

(Senator Caperton in Chair)

HOUSE CONCURRENT RESOLUTION 106 ON SECOND READING

Senator Lyon moved to suspend the regular order of business to take up for consideration at this time:

H.C.R. 106, Calling on the Congress of the United States to pass and send to the President an Act authorizing and imposing a temporary tariff on all imports of foreign crude oil and foreign petrochemical products.

The motion prevailed by the following vote: Yeas 21, Nays 4, Present-not voting 1.

Yeas: Barrientos, Blake, Caperton, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Lyon, McFarland, Montford, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Whitmire.

Nays: Brooks, Brown, Krier, Leedom.

Present-not voting: Edwards.

Absent: Mauzy, Parker, Washington.

Absent-excused: Uribe, Williams.

The resolution was read second time and was adopted.

RECORD OF VOTE

Senator Brooks asked to be recorded as voting "Nay" on the adoption of the resolution.

HOUSE BILL 874 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 874, Relating to the purchase of mutual funds for and the administration of deferred compensation plans for public employees:

The bill was read second time.

Senator Montford offered the following amendment to the bill:

Amend **H.B. 874** by adding a new SECTION 3 to read as follows and renumbering the emergency clause as SECTION 4:

SECTION 3. Article 6252-3b, Revised Statutes, is amended by adding a new Section 3B to read as follows:

Sec. 3B. Additional requirements for state plans only. (a) For investments in a deferred compensation product offered through a plan created under Subsection 457 of the Internal Revenue Code, the Comptroller may not require a seller of investment products to solicit business, place contracts, or otherwise procure deferred compensation agreements with or through particular agents, brokers, or companies. Each state employee shall have the right to designate the agent, broker or company through which the investment product is purchased. Provided, however, that nothing in this section shall prevent the Comptroller from restricting the participation of any agent, broker or company in the deferred compensation program for good cause.

(b) The Comptroller, when soliciting bids for the deferred compensation plan authorized under Subsection 401(k) of the Internal Revenue Code, shall consider bids from companies requiring the use of their own agents to sell their products as well as companies selling their products through a third party administrator or otherwise.

The amendment was read and was adopted.

On motion of Senator Montford and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

HOUSE BILL 874 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 874** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 2.

Yeas: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Mauzy, Montford, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Whitmire.

Nays: Parker, Washington.

Absent-excused: Uribe, Williams.

The bill was read third time and was passed.

RECORD OF VOTE

Senator Parker asked to be recorded as voting "Nay" on the final passage of the bill.

(Senator Parker in Chair)

HOUSE BILL 1583 ON SECOND READING

On motion of Senator Caperton and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1583, Relating to the review of the creation of regulatory state agencies, advisory committees, and programs.

The bill was read second time and was passed to third reading.

HOUSE BILL 1583 ON THIRD READING

Senator Caperton moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1583** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Washington.

Absent-excused: Uribe, Williams.

The bill was read third time.

Senator Sharp offered the following amendment to the bill:

Amend **H.B. 1583** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Title 87, Revised Statutes, is amended by adding Article 5429k-1 to read as follows:

"Article 5429k-1. REVIEW OF REGULATORY PROGRAMS

"Section 1. LEGISLATIVE FINDINGS. The legislature finds that:

"(1) the interests of the residents of the state are served by the regulation of certain professions and other occupations;

"(2) state government actions have produced a substantial increase in the number of regulatory programs;

"(3) the legislature should review proposed regulatory programs to better evaluate the need for the programs; and

"(4) regulation should not be imposed on any profession or other occupation unless required for the protection of the health, safety, or welfare of the residents of the state.

"Section 2. CONSIDERATIONS. In evaluating whether a profession or other occupation should be regulated, the following factors should be considered:

"(1) whether the unregulated practice of a profession or other occupation may significantly harm or endanger the public health, safety, or welfare and whether the potential for harm is easily recognizable and not remote or dependent on tenuous argument;

"(2) whether the practice of a profession or other occupation requires specialized skill or training and whether the public clearly needs and will benefit by assurances of initial and continuing competence of practitioners of the profession or occupation;

"(3) whether the regulation would have the effect of directly or indirectly increasing the cost of any goods or services and, if so, whether the increase would be more harmful to the public than the harm that might result from the absence of regulation;

"(4) whether the regulatory process would significantly reduce competition in the field and, if so, whether the reduction would be more harmful to the public than the harm that might result from the absence of regulation; and

"(5) whether the residents of the state are or may be effectively protected by other means.

"Section 3. FORMS OF REGULATION. (a) If the legislature finds that it is necessary to impose regulation on a profession or other occupation not regulated before the effective date of this Act, regulation should be implemented in the least restrictive manner available in the following order:

"(1) implementation of a system of registration by which practitioners of the profession or occupation register with a designated state agency, but without the imposition of prequalifications or requirements for issuance of the registration other than payment of a fee, and grounds may be established for suspension or revocation of the registration or other discipline of the registrant;

"(2) implementation of a system of licensure by which a practitioner receives recognition by the state that the practitioner has met predetermined qualifications, and persons not so licensed are prohibited from practicing the licensed profession or occupation, and grounds may be established for suspension or revocation of the license or other discipline of the licensee.

"(b) Alternative methods of regulation should be implemented when necessary and appropriate in specific cases."

SECTION 2. The Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes) is amended by adding Section 1.22 to read as follows:

"Section 1.22. REVIEW OF PROPOSED LEGISLATION CREATING REGULATORY AGENCY. (a) Each bill filed in a house of the legislature that would create a new state agency having regulatory authority or a new advisory committee to a state agency having regulatory authority shall be forwarded to the commission.

"(b) The commission shall review the bill to determine if:

"(1) the proposed regulatory and other functions of the agency or committee could be administered by one or more existing state agencies or advisory committees;

"(2) the form of regulation, if any, proposed by the bill is the least restrictive form of regulation that will adequately protect the public;

"(3) the bill provides for adequate public input regarding any regulatory function proposed by the bill; and

"(4) the bill provides for adequate protection against conflicts of interest within the agency or committee.

"(c). After reviewing the bill, the commission shall forward a written comment on the legislation to the author of the bill and to the presiding officer of the committee to which the bill is referred."

SECTION 3. Subdivision (1), Section 1.02, Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes), is amended to read as follows:

"(1) 'State agency' means:

"(A) an agency that is expressly made subject to this Act; [or]

"(B) a department, commission, board, or other agency (except a university system or an institution of higher education as defined in Section 61.003, Texas Education Code, as amended) that:

"(i) is created by statute after January 1, 1977;

"(ii) is part of any branch of state government; and

"(iii) has authority that is not limited to a geographical portion of the state;

or

"(C) a river authority created under Article XVI, Section 59, of the Texas Constitution and its board of directors unless the members of the board are elected by the voters in the authority prior to September 1, 1985."

SECTION 4. The Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes) is amended by adding Section 1.23 to read as follows:

"Section 1.23. APPLICATION OF ACT TO RIVER AUTHORITIES AND THEIR BOARDS OF DIRECTORS. (a) The following river authorities are subject to review under this Act, but may not be abolished under this Act. The board of directors of each of the following river authorities is subject to this Act. Unless members of the board of directors are continued in office under this Act, their membership expires on the following respective dates; unless the members of the board are elected by the voters in the authority prior to September 1, 1985, in which case the board is subject only to review under this Act and shall be reviewed on the following respective dates:

"(1) the Angelina and Neches River Authority and its board of directors, September 1, 1991;

"(2) the Bandera County River Authority and its board of directors, September 1, 1991;

"(3) the Brazos River Authority and its board of directors, September 1, 1991;

"(4) the Central Colorado River Authority and its board of directors, September 1, 1991;

"(5) the Guadalupe-Blanco River Authority and its board of directors, September 1, 1991;

"(6) the Guadalupe River Authority and its board of directors, September 1, 1991;

"(7) the Kimble County River Authority and its board of directors, September 1, 1991;

"(8) the Lavaca-Navidad River Authority and its board of directors, September 1, 1991;

"(9) the Lower Colorado River Authority and its board of directors, September 1, 1991;

"(10) the Mason County River Authority and its board of directors, September 1, 1991;

"(11) the Nueces River Authority and its board of directors, September 1, 1991;

"(12) the Palo Duro River Authority and its board of directors, September 1, 1991;

"(13) the Red River Authority of Texas and its board of directors, September 1, 1991;

"(14) the Sabine River Authority and its board of directors, September 1, 1991;

"(15) the San Antonio River Authority and its board of directors, September 1, 1991;

"(16) the San Jacinto River Authority and its board of directors, September 1, 1991;

"(17) the Trinity River Authority of Texas and its board of directors, September 1, 1991;

"(18) the Upper Colorado River Authority and its board of directors, September 1, 1991;

"(19) the Upper Guadalupe River Authority and its board of directors, September 1, 1991.

"(b) When the membership of a board of directors expires, a new board of directors shall be appointed by the governor, with each new appointee serving for the unexpired term of his or her predecessor. A member whose membership has expired pursuant to Subsection (a) of this section is not eligible for reappointment under this subsection. Each director shall qualify by taking the official oath of office prescribed by the constitution or general statute of the State of Texas."

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public

necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read and was adopted by the following vote: Yeas 20, Nays 8.

Yeas: Barrientos, Blake, Brooks, Caperton, Glasgow, Harris, Henderson, Krier, Lyon, McFarland, Mauzy, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Truan, Washington, Whitmire.

Nays: Brown, Edwards, Farabee, Jones, Kothmann, Leedom, Sims, Traeger.

Absent: Howard.

Absent-excused: Uribe, Williams.

On motion of Senator Caperton and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was finally passed by the following vote: Yeas 21, Nays 7.

Yeas: Barrientos, Blake, Brooks, Caperton, Edwards, Glasgow, Harris, Henderson, Krier, Lyon, McFarland, Mauzy, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Truan, Washington, Whitmire.

Nays: Brown, Farabee, Jones, Kothmann, Leedom, Sims, Traeger.

Absent: Howard.

Absent-excused: Uribe, Williams.

(Senator Caperton in Chair)

HOUSE BILL 2161 ON SECOND READING

Senator Henderson moved to suspend the regular order of business to take up for consideration at this time:

H.B. 2161, Relating to the purchase and sale of securities in the control of a financial institution as a trustee or as a custodian of an individual retirement account.

The motion prevailed by the following vote: Yeas 19, Nays 6.

Yeas: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Harris, Henderson, Kothmann, Krier, Leedom, McFarland, Montford, Santiesteban, Sarpalius, Sharp, Sims, Truan, Whitmire.

Nays: Farabee, Glasgow, Lyon, Mauzy, Parmer, Traeger.

Absent: Howard, Jones, Parker, Washington.

Absent-excused: Uribe, Williams.

The bill was read second time.

Senator Parmer offered the following amendment to the bill:

Amend **H.B. 2161** by adding:

“provided that any commissions charged by an affiliated brokerage service shall be at the lowest rate charged any customers by that brokerage service.” at the end of Section 2(f)2.

The amendment was read and was adopted.

On motion of Senator Henderson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by the following vote: Yeas 21, Nays 7.

Yeas: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Harris, Henderson, Kothmann, Krier, Leedom, McFarland, Montford, Parker, Santiesteban, Sarpalius, Sims, Traeger, Washington, Whitmire.

Nays: Glasgow, Jones, Lyon, Mauzy, Parmer, Sharp, Truan.

Absent: Howard.

Absent-excused: Uribe, Williams.

MOTION TO PLACE HOUSE BILL 2161 ON THIRD READING

Senator Henderson moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 2161** be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 20, Nays 8. (Not receiving four-fifths vote of Members present)

Yeas: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Harris, Henderson, Kothmann, Krier, Leedom, McFarland, Montford, Parker, Santiesteban, Sarpalius, Sims, Truan, Whitmire.

Nays: Glasgow, Jones, Lyon, Mauzy, Parmer, Sharp, Traeger, Washington.

Absent: Howard.

Absent-excused: Uribe, Williams.

HOUSE BILL 1717 ON SECOND READING

Senator Brown asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

H.B. 1717, Relating to the sale of certain mixtures of gasoline and alcohol; providing penalties.

There was objection.

Senator Brown then moved to suspend the regular order of business and take up **H.B. 1717** for consideration at this time.

The motion prevailed by the following vote: Yeas 24, Nays 4.

Yeas: Blake, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Washington.

Nays: Barrientos, Brooks, Mauzy, Truan.

Absent: Whitmire.

Absent-excused: Uribe, Williams.

The bill was read second time.

Senator Brown offered the following committee amendment to the bill:

Amend **H.B. 1717**, SECTION 4, beginning on page 4, line 22 and continuing to page 5 through line 9 as follows:

"eliminate Sec. 17.009 in its entirety."

The committee amendment was read and was adopted.

On motion of Senator Brown and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

RECORD OF VOTE

Senator Truan asked to be recorded as voting "Nay" on the passage of the bill to third reading.

HOUSE BILL 1717 ON THIRD READING

Senator Brown moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.B. 1717 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 23, Nays 5.

Yeas: Blake, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger.

Nays: Barrientos, Brooks, Mauzy, Truan, Washington.

Absent: Whitmire.

Absent-excused: Uribe, Williams.

The bill was read third time and was passed by the following vote: Yeas 24, Nays 4.

Yeas: Blake, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Washington.

Nays: Barrientos, Brooks, Mauzy, Truan.

Absent: Whitmire.

Absent-excused: Uribe, Williams.

SENATE RULE 103 SUSPENDED

On motion of Senator Mauzy and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Jurisprudence might consider the following bill and resolutions today:

H.B. 1391

H.C.R. 194

H.C.R. 212

HOUSE BILL 1252 ON SECOND READING

On motion of Senator Washington and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1252, Relating to the authorization of investments in certain development bank securities by certain private and governmental investors.

The bill was read second time and was passed to third reading.

HOUSE BILL 46 ON SECOND READING

On motion of Senator Edwards and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 46, Relating to the authority of a county to adopt zoning and building construction ordinances for the areas around certain lakes; providing a penalty.

The bill was read second time.

Senator Brooks offered the following amendment to the bill:

Amend SECTION 5 of **H.B. 46** by adding a new subsection to read as follows:

“(c) The commissioners court may not regulate new manufactured or industrialized housing, constructed to preemptive state or federal building standards, for siting or zoning purposes in any manner which is different from regulation of site-built housing.”

The amendment was read and was adopted.

On motion of Senator Edwards and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

RECORD OF VOTE

Senator Montford asked to be recorded as voting “Nay” on the passage of the bill to third reading.

HOUSE BILL 46 ON THIRD READING

Senator Edwards moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 46** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 24, Nays 3, Present-not voting 1.

Yeas: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Henderson, Howard, Jones, Kothmann, Krier, Lyon, McFarland, Mauzy, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan.

Nays: Harris, Montford, Washington.

Present-not voting: Leedom.

Absent: Whitmire.

Absent-excused: Uribe, Williams.

The bill was read third time and was passed by the following vote: Yeas 25, Nays 2, Present-not voting 1.

Yeas: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Henderson, Howard, Jones, Kothmann, Krier, Lyon, McFarland, Mauzy, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Washington.

Nays: Harris, Montford.

Present-not voting: Leedom.

Absent: Whitmire.

Absent-excused: Uribe, Williams.

HOUSE BILL 797 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 797, Relating to application of weight and size limitations to the movement of certain vehicles on public highways and to permits required for certain heavy or oversized equipment.

The bill was read second time.

Senator Montford offered the following amendment to the bill:

Amend **H.B. 797** as follows:

(1) On page 1, strike lines 12-15 and substitute the following:

SECTION 1. Chapter 41, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6701a, Vernon's Texas Civil Statutes), is amended by amending Sections 1-a, 2, 3, and 4 and adding Sections 5 and 6 to read as follows:

Sec. 1-a. In order to facilitate the issuance of the [such] special permits, the State [Highway] Department of Highways and Public Transportation shall designate [in each county] a special agent or agents who shall at all times be available for the purpose of issuing such permits in compliance with this law.

(2) On page 1, between lines 27 and 28, insert the following:

Sec. 3. (a) Before a permit is issued the applicant for the same shall file with the State Department of Highways and Public Transportation a bond in an amount to be set and approved by the Department, payable to the Department and conditioned that the applicant will pay to the Department any damage that might be sustained to the highway by virtue of the operation of the equipment for which a permit is issued to operate, and venue of any suit for recovery upon said bond may be any court of competent jurisdiction in Travis County.

(b) There shall also accompany the application for permit a fee of \$20 for single trip permits, \$40 for time permits not exceeding a period of thirty (30) days; \$60 for time permits not exceeding a period of sixty (60) days and \$80 for time permits not exceeding a period of ninety (90) days, which fee shall be by the Department deposited in the Treasury of the State of Texas to the credit of the State Highway Fund.

(c) The State Highway and Public Transportation Commission may adopt rules regarding the method of payment of a fee under Subsection (b) of this section. The rules may authorize the use of a valid credit card issued by a financial institution chartered by a state or the federal government or by a nationally recognized credit organization approved by the Commission. The rules may require the payment of a discount or service charge for a credit card payment, in addition to the fee prescribed by Subsection (b) of this section.

(d) As a further prerequisite to the issuance of any such permits, the equipment to be operated under such permit must have been registered under Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929, as amended (Article 6675a-1 et seq., Vernon's Texas Civil Statutes), for maximum gross weight applicable to such vehicle under Section 5, Chapter 42, General Laws,

Acts of the 41st Legislature, 2nd Called Session, 1929, as amended (Article 6701d-11, Vernon's Texas Civil Statutes), not exceeding eighty thousand (80,000) pounds total gross weight.

(e) The requirement of a bond contained in this section does not apply to the driving or transporting of farm equipment which is being used for agricultural purposes if it is driven or transported by or under the authority of the owner of the equipment. The bond requirement does apply to the delivery of farm equipment to a farm equipment dealer.

The amendment was read and was adopted.

On motion of Senator Montford and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

HOUSE BILL 797 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 797** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Washington.

Absent-excused: Uribe, Williams.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0.

Absent-excused: Uribe, Williams.

MOTION TO PLACE HOUSE BILL 1592 ON SECOND READING

Senator Lyon asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

H.B. 1592, Relating to certification requirements for peace officers.

There was objection.

Senator Lyon then moved to suspend the regular order of business and take up **H.B. 1592** for consideration at this time.

The motion was lost by the following vote: Yeas 16, Nays 10. (Not receiving two-thirds vote of Members present)

Yeas: Barrientos, Brooks, Caperton, Edwards, Henderson, Jones, Kothmann, Krier, Lyon, McFarland, Mauzy, Parker, Parmer, Santiesteban, Truan, Whitmire.

Nays: Blake, Glasgow, Harris, Howard, Leedom, Montford, Sarpalius, Sharp, Sims, Traeger.

Absent: Brown, Farabee, Washington.

Absent-excused: Uribe, Williams.

(Senator Brooks in Chair)

COMMITTEE SUBSTITUTE HOUSE CONCURRENT RESOLUTION 42 ON SECOND READING

Senator Harris moved to suspend the regular order of business to take up for consideration at this time on its second reading:

C.S.H.C.R. 42, Memorializing Congress to pursue a non-nuclear defensive system in space.

The motion prevailed by the following vote: Yeas 19, Nays 8, Present-not voting 1.

Yeas: Blake, Brooks, Brown, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Montford, Santiesteban, Sarpalius, Sharp, Sims, Traeger.

Nays: Barrientos, Caperton, Farabee, Mauzy, Parker, Parmer, Truan, Whitmire.

Present-not voting: Edwards.

Absent: Washington.

Absent-excused: Uribe, Williams.

The resolution was read second time and was adopted.

RECORD OF VOTES

Senators Barrientos, Mauzy, Parker and Washington asked to be recorded as voting "Nay" on the adoption of the resolution.

(President in Chair)

SENATE CONCURRENT RESOLUTION 184

Senator Jones offered the following resolution:

S.C.R. 184, Enabling the Conference Committee on **H.B. 1593** (the Fee Bill) to consider and take action on certain specific matters.

On motion of Senator Jones, the resolution was considered immediately and was adopted by the following vote: Yeas 27, Nays 11.

Nays: Barrientos.

Absent: Washington.

Absent-excused: Uribe, Williams.

COMMITTEE SUBSTITUTE HOUSE BILL 1811 ON SECOND READING

On motion of Senator Caperton and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 1811, Relating to the prohibition of unauthorized insurance activities.

The bill was read second time and was passed to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 1811 ON THIRD READING

Senator Caperton moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1811** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent: Washington.

Absent-excused: Uribe, Williams.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE HOUSE BILL 1957 ON SECOND READING

On motion of Senator Glasgow and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 1957, Relating to the definition of air conditioning maintenance work; exemptions; and municipal regulation under the Air Conditioning Contractor License Law.

The bill was read second time.

Senator Henderson offered the following amendment to the bill:

Amend **C.S.H.B. 1957** on page 1, line 63 by striking "is" after the word holder and substituting "and people under supervision are [is]".

The amendment was read and was adopted.

RECORD OF VOTE

Senator Montford asked to be recorded as voting "Nay" on the adoption of the amendment.

On motion of Senator Glasgow and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

RECORD OF VOTES

Senators Montford and Traeger asked to be recorded as voting "Nay" on the passage of the bill to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 1957 ON THIRD READING

Senator Glasgow moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.H.B. 1957** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 2.

Yeas: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Mauzy, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Truan, Whitmire.

Nays: Montford, Traeger.

Absent: Washington.

Absent-excused: Uribe, Williams.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 2. (Same as previous roll call)

HOUSE BILL 2259 ON THIRD READING

On motion of Senator Farabee and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its third reading and final passage.

H.B. 2259, Relating to the administration, reduction, or termination of block grant funds.

The bill was read third time.

Senator Farabee offered the following amendment to the bill:

Amend **H.B. 2259** by striking everything below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Section 4(a), Chapter 467, Acts of the 68th Legislature, Regular Session, 1983 (Article 6252-13e, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) In the course of developing its proposed request for legislative appropriations before each regular legislative session [Before formulating or substantially amending a plan for the use of block grant funds], an agency covered by this Act shall hold a public hearing in four locations in different areas of the state to solicit public comment on the intended use of funds.

SECTION 2. Section 9, Chapter 467, Acts of the 68th Legislature, Regular Session, 1983 (Article 6252-13e, Vernon's Texas Civil Statutes), is amended by amending Subsection (f) and by adding Subsection (i) to read as follows:

(f) The agency shall conduct the hearing before the 31st day after the date the request was received to determine whether the funding should be reduced, unless the agency and entity agree to postpone the hearing.

(i) This section does not apply if an entity's block grant funding becomes subject to the agency's competitive bidding rules which require the agency to invite bids for competitive evaluation.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read and was adopted by unanimous consent.

The bill as amended was finally passed by the following vote: Yeas 28, Nays 0.

Absent: Washington.

Absent-excused: Uribe, Williams.

SENATE RULE 74a SUSPENDED

On motion of Senator Whitmire and by unanimous consent, Senate Rule 74a was suspended as it relates to House amendments to **S.B. 540**.

SENATE BILL 540 WITH HOUSE AMENDMENTS

Senator Whitmire called **S.B. 540** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.
Floor Amendment No. 1 - Green

Amend **S.B. 540** by adding the words "or other peace officer" after the word "Department" on line 19 of page 1.

Floor Amendment No. 2 - Green

Amend **S.B. 540** by adding the following after the enacting clause and renumbering the remaining sections accordingly.

SECTION 1. Section 8, Chapter 325, Acts of the 50th Legislature, Regular Session, 1947 (Article 1269m, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 8. CLASSIFICATION OF FIREMEN AND POLICEMEN; EDUCATIONAL INCENTIVE PAY; APPOINTMENTS. (a) In a city having a population of 1,500,000 or more, according to the most recent federal census, the Commission shall provide for the classification of all firemen and policemen. Such classification shall be provided by ordinance of the City Council, or legislative body. Said City Council, or legislative body, shall prescribe by ordinance the number of positions of each classification.

(b) Except as expressly provided by Subsection (f) of this section, no [No] classification now in existence, or that may be hereafter created in such cities, shall ever be filled except by examination held in accordance with the provisions of this law. All persons in each classification shall be paid the same salary and in addition thereto be paid any of the following types of pay that they may be entitled to: (1) longevity pay; (2) seniority pay; (3) educational incentive pay; or (4) assignment pay. This shall not prevent the Head of such Department from designating some person from the next lower classification to fill a position in a higher classification temporarily, but any such person so designated by the Head of the Department shall be paid the base salary of such higher position plus his own longevity pay during the time he performs the duties thereof. The temporary performance of the duties of any such position by a person who has not been promoted in accordance with the provisions of this Act shall never be construed to promote such person. All vacancies shall be filled by permanent appointment from eligibility lists furnished by the Commission within sixty (60) days after such vacancy occurs. If no list is in existence, the vacancy shall be filled from a list which the Commission shall provide within ninety (90) days after such vacancy occurs.

(c) Firemen and policemen shall be classified as above provided, and shall be under civil service protection except the Chief or Head of such Fire Department or Police Department, by whatever name he may be known.

(d) Said Chiefs or Department Heads shall be appointed by the Chief Executive, and confirmed by the City Council or legislative body except in cities where the Department Heads are elected. In those cities having elective Fire and Police Commissioners the appointments for Chiefs and Heads of those Departments shall be made by the respective Fire or Police Commissioners in whose Department the vacancy exists, and such appointments shall be confirmed by the City Council or legislative body.

(e) Said City Council or legislative body may authorize educational incentive pay in addition to regular pay for policemen and firemen within each classification, who have successfully completed courses in an accredited college or university, provided that such courses are applicable toward a degree in law enforcement-police

science and include the core curriculum in law enforcement or are applicable toward a degree in fire science. An accredited college or university, as that term is used herein, shall mean any college or university accredited by the nationally recognized accrediting agency and the state board of education in the state wherein said college or university is located and approved or certified by the Texas Commission on Law Enforcement Officer Standards and Education as teaching the core curriculum or its equivalent or, in the case of fire science degree courses, approved or certified by the Texas Commission on Fire Protection, Personnel Standards, and Education. Core curriculum in law enforcement, as used herein, shall mean those courses in law enforcement education as approved by the Coordinating Board, Texas College and University System and the Texas Commission on Law Enforcement Officer Standards and Education.

(f) In any city having a population of 1,500,000 or more according to the most recent federal census, the Fire Chief or Police Chief may appoint persons to hold command staff positions in their departments subject to the following:

(1) The Police Chief may appoint to any position at the rank of Assistant Chief any member of the classified service who has served for at least five (5) years in the department as a sworn police officer and who meets the additional required qualifying criteria for filling the positions that were established by the Police Chief and approved by a vote of two-thirds (2/3) of the city council present and voting. An appointment may not be made before the required qualifying criteria have been established and approved as prescribed by this subdivision.

(2) The Fire Chief may appoint to any position at the rank of Assistant Chief any member of the classified service who has served for at least five (5) years in the department as a certified fire fighter and who meets the additional required qualifying criteria for filling the positions that were established by the Fire Chief and approved by a vote of two-thirds (2/3) of the city council present and voting. An appointment may not be made before the required qualifying criteria have been established and approved as prescribed by this subdivision.

(3) The Fire Chief or Police Chief may remove any person appointed under this subsection without cause. If an appointee is removed without cause, the appointee shall be restored to that person's highest rank earned by competitive examination. However, if a person appointed under this subsection is temporarily or indefinitely suspended for cause from the appointive position, the suspension from the department is subject to the procedures for disciplinary action specified by this Act. If a person is indefinitely suspended for cause, the person does not have a right to reinstatement to the highest rank earned by competitive examination except to the extent that the indefinite suspension is reversed or modified by order of the commission or a hearing examiner.

(4) A person occupying a position in a rank specified in Subdivision (f)(1) or (f)(2) of this section on the effective date of this subsection may not be removed except for cause in accordance with the procedures for disciplinary action or demotion specified by this Act.

(5) A person occupying a position in a rank specified in Subdivision (f)(1) or (f)(2) of this section may voluntarily demote himself to his highest rank earned by competitive examination.

(6) A person may remove himself from consideration for appointment to a position in a rank specified in Subdivision (f)(1) or (f)(2) of this section.

(7) A person appointed under Subdivision (f)(1) or (f)(2) of this section may take any promotional examination for which the person would have been eligible under Section 14 of this Act.

(8) A person appointed under the provisions of Subsection (f)(1) or (f)(2) shall be subject to confirmation by the governing body of the city.

SECTION 2. Section 8B, Chapter 325, Acts of the 50th Legislature, Regular Session, 1947 (Article 1269m, Vernon's Texas Civil Statutes), is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) In any city having a population of 1,500,000 or more, according to the most recent federal census, the city council or legislative body may authorize assignment pay for emergency ambulance attendants, [and] field training officers, and hazardous materials response team personnel in an amount and payable under conditions as set by ordinance. The assignment pay shall be in addition to the regular pay received by members of the fire department. The chief of the fire department is not eligible for the assignment pay authorized by this section.

(d) In any city having a population of 1,500,000 or more according to the most recent federal census, the city council or legislative body may authorize assignment pay for bilingual personnel performing specialized functions as interpreters or translators in their respective departments. The assignment pay is in an amount and payable under conditions set by ordinance. The assignment pay shall be in addition to the regular pay received by members of the fire or police department. If the ordinance applies equally to all persons meeting criteria established by the ordinance, the ordinance may provide for payment to each fire fighter or police officer who meets testing or other certification criteria for an assignment, or the ordinance may set criteria that will determine the foreign languages in which a person must be fluent or other criteria for eligibility. The ordinance may provide for different rates of pay according to a person's capability and may allow more pay to those members who are capable of translating orally and into written English. The chiefs of the fire and police departments are not eligible for the assignment pay authorized by this subsection.

SECTION 3. Section 8B(b), Chapter 325, Acts of the 50th Legislature, Regular Session, 1947 (Article 1269m, Vernon's Texas Civil Statutes), is amended by adding Subdivisions (6) and (7) to read as follows:

(6) "Hazardous materials response team personnel" means a member of the fire department who is assigned to a hazardous materials response team and who actually stabilizes or participates in the stabilization of hazardous materials in an emergency.

(7) "Bilingual personnel" means a member of the fire or police department who in the performance of the member's duties is capable of effectively translating orally a language other than English into English, and when necessary, effectively translating the language into written English.

SECTION 4. Section 9, Chapter 325, Acts of the 50th Legislature, Regular Session, 1947 (Article 1269m, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 9. EXAMINATION FOR ELIGIBILITY LISTS. (a) The Commission shall make provisions for open, competitive and free examinations for persons making proper application and meeting the requirements as herein prescribed. All eligibility lists for applicants for original positions in the Fire and Police Departments shall be created only as a result of such examinations, and no appointments shall ever be made for any position in such Departments except as a result of such examination, which shall be based on the applicant's knowledge of and qualifications for fire fighting and work in the Fire Department, or for police work and work in the Police Department, as shown by competitive examinations in the presence of all applicants for such position, and shall provide for thorough inquiry into the applicant's general education and mental ability. Fire Department entrance examinations may be given at different locations if all applicants are given the same examination and examined in the presence of other applicants. An applicant may not take the examination more than once for each eligibility list. An applicant may not take an examination unless at least one (1) other applicant being tested is present.

(b) An applicant who has served in the armed forces of the United States and who received an honorable discharge shall receive five (5) points in addition to his competitive grades.

(c) The Commission shall keep all eligibility lists for applicants for original positions in the Fire Department or Police Department in effect for not less than six (6) months nor more than twelve (12) months unless the names of all applicants have been referred to the appropriate Department. The Commission shall give a new examination at the end of the twelve (12) month period or sooner, if applicable, or if all names on the list have been referred to the appropriate Department. The Commission shall determine how long each eligibility list shall remain in effect within the six (6) to twelve (12) month period and shall include this information on the eligibility announcement.

(d) Appropriate physical examinations shall be required of all applicants for beginning or promotional positions, and the examinations shall be given by a physician appointed by the Commission and paid by such city; and in the event of rejection by such physician, the applicant may call for further examination by a board of three (3) physicians appointed by the Commission, but at the expense of the applicant, whose findings shall be final. The age and physical requirements shall be set by the Commission in accordance with provisions of this law and shall be the same for all applicants.

(e) No person shall be certified as eligible for a beginning position with a Fire Department who has reached his thirty-sixth birthday. No person shall be certified as eligible for a beginning position with a Police Department who has reached his thirty-sixth birthday unless the applicant has at least five (5) years prior experience as a peace officer, or 5 years of military experience. No person shall be certified as eligible for a beginning position with a Police Department who has reached his forty-fifth birthday.

(f) In a city having a population of 1,500,000 or more, according to the most recent federal census, a person may not be certified as eligible for a beginning position with a Police Department unless the person:

(1) is at least 21 years of age at the end of the probationary period; or

(2) served in the armed forces of the United States and received an honorable discharge; or

(3) has earned at least sixty (60) hours' credit in any area of study at an accredited college or university.

(g) All police officers and firemen coming under this Act must be able to [intelligently] read and write the English language.

(h) When a question arises as to whether a fireman or policeman is sufficiently physically fit to continue his duties, the employee shall submit a report from his personal physician to the Commission. If the Commission, the head of the Department, or the employee questions the report, the Commission shall appoint a physician to examine the employee and to submit a report to the Commission, to the head of the Department, and to the employee. If the appointed physician's report disagrees with the report of the employee's personal physician, the Commission shall appoint a board of three (3) physicians to examine the employee. Their findings as to the employee's fitness for duty shall determine the issue. The cost of the services of the employee's personal physician shall be paid by the employee. All other costs shall be paid by the city.

(i) A fireman or policeman who has been certified by a physician selected by a firemen's or policemen's relief or retirement fund as having recovered from a disability for which he has been receiving a monthly disability pension shall, with the approval of the Commission and if otherwise qualified, be eligible for reappointment to the classified position that he held as of the date that he qualified for a monthly disability pension.

SECTION 5. Section 13, Chapter 325, Acts of the 50th Legislature, Regular Session, 1947 (Article 1269m, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 13. EXAMINATION PROCEDURE ~~[NOTICE—OF EXAMINATIONS]~~. (a) At least ten (10) days in advance of any entrance examination and at least thirty (30) days in advance of any examination for promotion, the Commission shall cause to be posted on a bulletin board located in the main lobby of the city hall, and the office of the Commission, and in plain view, a notice of such examination, and said notice shall show the position to be filled or for which examination is to be held, with date, time, and place thereof, and in case of examination for promotion, copies of such notice shall be furnished in quantities sufficient for posting in the various stations or subdepartments in which position is to be filled. No one under eighteen (18) years of age shall take any entrance examination, and appointees to the Police and Fire Department shall not have reached their thirty-sixth birthday for entrance into the Fire Department or Police Department. The results of each examination for promotion shall be posted on a bulletin board located in the main lobby of the city hall by the Commission within twenty-four (24) hours after such examination.

(b) In a city having a population of 1,500,000 or more according to the most recent federal census, the Commission shall adopt rules to standardize the procedures for entrance and promotional examinations. The rules shall provide:

(1) that each applicant has adequate space in which to take the examination;

(2) that each applicant is provided with a desk;

(3) that the room in which the examination is held has a public address system; and

(4) the maximum number of times an applicant may leave the room and the procedure each applicant must follow when leaving or entering the room during the examination.

(c) In a city having a population of 1,500,000 or more according to the most recent federal census, the city shall, at least thirty (30) days in advance of any examination for promotion, post a notice of the number of newly created positions. The notice must be posted in plain view on a bulletin board located in the main lobby of the city hall and in the office of the Commission. The city shall distribute the notice to all stations and subdepartments.

SECTION 6. Section 16b(a), Chapter 325, Acts of the 50th Legislature, Regular Session, 1947 (Article 1269m, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) In a city having a population of 1,500,000 or more according to the most recent federal census, the head of either the fire or the police department may suspend an officer or employee under his jurisdiction or supervision for disciplinary purposes, for reasonable periods, not to exceed 15 days. If offered by the chief or head of the department, the officer or employee may agree in writing to voluntarily accept, with no right of appeal, a suspension of not less than 16 nor more than 90 calendar days for violation of civil service rules. The officer or employee must accept the offer not later than the fifth working day after the offer is made. If the officer or employee refuses an offer of suspension of not less than 16 or more than 90 calendar days and wishes to appeal to the commission, the officer or employee must file a written appeal with the commission not later than the 15th day after the date the officer or employee receives the statement. If the department suspends a person, the department head shall file with the commission not later than the 120th hour after the person is suspended a written statement of action, and the commission shall, on appeal of the suspended officer or employee, hold a public hearing as prescribed by Section 17 of this Act. The commission shall determine whether just cause exists for the suspension. If the department head fails to file the statement with

the commission within the 120-hour time period, the suspension is void and the employee is entitled to his full salary. The commission may reverse the decision of the department head and instruct the department head to immediately restore the employee to his position and to repay the employee for any lost wages. If the commission finds that the period of disciplinary suspension should be reduced, it may order a reduction in the period of suspension. If the department head refuses to obey the order of the commission, the provisions of Section 16 of this Act relating to salaries of employees, the discharge of the department head, and the other provisions relating to the refusal of the department head apply.

SECTION 7. Section 16c(a), Chapter 325, Acts of the 50th Legislature, Regular Session, 1947 (Article 1269m, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) In a city in this state that has adopted this Act [~~having a population of less than 1,500,000 according to the most recent federal census~~], in an appeal of an indefinite suspension, a suspension, a promotional passover, or a recommended demotion, the appealing employee may elect to appeal to an independent third party hearing examiner instead of to the commission. To exercise this choice, the appealing employee must submit a letter to the director stating his decision to appeal to an independent third party hearing examiner.

SECTION 8. Section 16d(a), Chapter 325, Acts of the 50th Legislature, Regular Session, 1947 (Article 1269m, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) In a city in this state that has adopted this Act [~~having a population of less than 1,500,000 according to the most recent federal census~~], if a fire fighter or police officer is indicted for a felony or officially charged with the commission of a Class A or B misdemeanor, the procedures prescribed by this section apply.

SECTION 9. Chapter 325, Acts of the 50th Legislature, Regular Session, 1947 (Article 1269m, Vernon's Texas Civil Statutes), is amended by adding Section 16e to read as follows:

Sec. 16e. POLYGRAPH EXAMINATIONS. In a city having a population of 1,500,000 or more according to the most recent federal census, a police officer or fire fighter employed by the city shall not be required to submit to a polygraph examination as part of an internal investigation regarding the conduct of the fire fighter or police officer unless and until the complainant submits to and passes a polygraph examination. The polygraph examination restriction does not apply if the complainant is physically or mentally incapable of being polygraphed. For the purposes of this section, a person "passes" a polygraph examination if, in the opinion of the polygraph examiner, no deception is indicated regarding matters critical to the subject matter under investigation. The results of a polygraph examination that relate to the complaint under investigation are not admissible in a proceeding before the civil service commission or a hearing examiner. (Nothing herein shall preclude the Chief from ordering a police officer or fire fighter to submit to a polygraph examination when, in the exercise of his discretion, he considers the circumstances to be extraordinary and he believes that the integrity of a police officer or fire fighter or the department is in question.)

SECTION 10. Section 18, Chapter 325, Acts of the 50th Legislature, Regular Session, 1947 (Article 1269m, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 18. APPEAL TO DISTRICT COURT. In the event any fire fighter or police officer [Fireman or Policeman] is dissatisfied with any decision of the Commission, he may, within ten (10) days after the rendition of such final decision, file a petition in the District Court, asking that the decision be set aside, and such case shall be tried de novo. In a city having a population of 1,500,000 or more according to the most recent federal census, all appeals from an indefinite

suspension shall be advanced on the District Court docket and shall be given a preference setting over all other cases. The court in such actions may grant such legal or equitable relief as may be appropriate to effectuate the purposes of this Act, including reinstatement or promotion with back pay where an order of suspension, dismissal, or demotion is set aside. The court may award reasonable attorney's fees to the prevailing party and assess court costs against the nonprevailing party. If the court finds for the fire fighter or police officer ~~[fireman or policeman]~~, the court shall order the city to pay lost wages to the fire fighter or police officer ~~[fireman or policeman]~~.

SECTION 11. Chapter 325, Acts of the 50th Legislature, Regular Session, 1947 (Article 1269m, Vernon's Texas Civil Statutes), is amended by adding Section 20A to read as follows:

Sec. 20A. UNCOMPENSATED DUTY IN CERTAIN CITIES. (a) In this section, "uncompensated duty" means days of work without pay in a fire or police department and does not include regular or normal work days.

(b) In a city having a population of 1,500,000 or more according to the most recent federal census, the chief or head of the Fire or Police Department may assign any officer or employee under his jurisdiction or supervision to uncompensated duty. The chief or department head may not impose uncompensated duty unless the officer or employee agrees. The duty may be in place of or in combination with a period of disciplinary suspension without pay. If uncompensated duty is combined with a disciplinary suspension, the total number of uncompensated duty days may not exceed 15. If the officer or employee agrees in writing to accept uncompensated duty, the chief or department head shall give the officer or employee a written statement that specifies the date or dates on which the officer or employee will perform uncompensated duty. If the officer or employee agrees to accept uncompensated duty, the officer or employee does not have a right to administrative or judicial review.

(c) An officer or employee may not earn or accrue any benefit arising from length of service or any wage or salary while the officer or employee is suspended or performing uncompensated duty. A disciplinary suspension does not constitute a break in a continuous position or service in the department for the purpose of determining eligibility for a promotional examination. Except as provided by this subsection, an officer or employee performing assigned uncompensated duty retains all rights and privileges of his position in the department and of his employment by the city.

SECTION 12. Section 26(b), Chapter 325, Acts of the 50th Legislature, Regular Session, 1947 (Article 1269m, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 26(b). TERMINATION OF SERVICE, LUMP SUM PAYMENTS: CITIES OF 1,500,000 [1,200,000] OR MORE, ACCUMULATED SICK LEAVE; CITIES OF 650,000 OR MORE, ACCUMULATED VACATION LEAVE. (a) In any city in this State having a population of one million, five [two] hundred thousand (1,500,000) [1,200,000] or more inhabitants, according to the last preceding federal census, a fireman or policeman who leaves the classified service for any reason or the beneficiaries of any fireman or policeman who loses his life as a result of a line of duty injury or illness shall receive in a lump sum payment the full amount of his [salary for the period of his] accumulated sick leave as provided by Subdivisions (1) and (2) of this subsection.

(1) A fireman or policeman hired before September 1, 1985, shall have his sick leave [Sick leave shall be] accumulated without limit. All sick leave accumulated before September 1, 1985, shall be valued at the fireman's or policeman's salary on August 31, 1985. Sick leave accumulated after September 1, 1985, shall be valued at the fireman's or policeman's average salary in the fiscal year

in which the sick time was accumulated. Beginning September 1, 1985, each day or part of a day of sick leave used by a fireman or policeman shall be charged to that person's earliest acquired unused accumulated day of sick leave, in the same manner as is utilized in the first in, first out accounting principle. All firemen and policemen hired by the city before September 1, 1985, shall have a one-time option to select coverage under the city ordinance governing sick leave benefits and policy for the municipal employees who are not subject to this Act. The option terminates on December 31 of the year in which this section takes effect in the city.

(2) The sick leave of any person who becomes a member of the fire or police department on or after September 1, 1985, shall be covered by the city ordinance governing sick leave benefits and policy for the municipal employees who are not subject to this Act.

(3) Any city coming under this subsection shall provide, in its annual budget, a sum reasonably calculated to provide funding for sick leave benefits for the fiscal year covered by that budget.

(b) In any city in this State having a population of six hundred and fifty thousand (650,000) or more inhabitants, according to the last preceding federal census, a fireman or policeman who leaves the classified service for any reason shall receive in a lump sum payment the full amount of his salary for the period of his accumulated vacation leave, provided that such payment shall be based upon not more than sixty (60) working days of accumulated vacation leave. Any fireman or policeman who leaves the classified service or loses his life as the result of a line of duty injury or illness or the beneficiaries of such fireman or policeman shall be paid the full amount of his salary for the total number of his working days of accumulated vacation leave.

SECTION 13. Chapter 325, Acts of the 50th Legislature, Regular Session, 1947 (Article 1269m, Vernon's Texas Civil Statutes), is amended by adding Section 29 to read as follows:

Sec. 29. GRIEVANCE PROCEDURE IN CERTAIN CITIES. (a) In a city having a population of 1,500,000 or more, according to the most recent federal census, a member of the fire or police department may file a grievance as prescribed by this section. A member of the fire or police department may file a grievance that relates to the same aspects of his employment over which the civil service commission for the employees of the city who are not subject to this Act would have lawful jurisdiction, except a grievance relating to:

(1) any disciplinary or other action or decision for which a hearing, review, or appeal is otherwise provided by this Act; or

(2) in whole or in part, an allegation of discrimination based on race, color, religion, sex, or national origin.

(b) The civil service director shall monitor and assist the operation of the grievance procedure. The duties of the director include:

(1) aiding the departments and departmental grievance counselors;

(2) notifying the parties of meetings;

(3) docketing cases before the grievance examiner; and

(4) ensuring that the grievance procedure operates timely and effectively.

(c) The chief of the department shall appoint from among the members of the department a grievance counselor whose duties include:

(1) providing appropriate grievance forms to a member;

(2) accepting, on behalf of the chief of the department, a step I or II grievance;

(3) assisting the member in handling the grievance;

(4) forwarding a copy of step I or II grievance forms to the director and notifying the chief of the department;

(5) arranging a meeting between the aggrieved member and the member's immediate supervisor as prescribed by Subsection (d)(1)(B) of this section;

(6) arranging the meeting between the member and the member's chief or the chief's designated representative as prescribed by Subsection (d)(2)(B) of this section; and

(7) performing duties that may be assigned by the chief of the department.

(d)(1) The grievance procedure consists of four steps. A member must file in writing a step I grievance as prescribed by this subdivision not later than the 30th day after the date on which the action or inaction for which the member feels aggrieved occurred. If the step I grievance form is not timely filed, the grievance is waived. The following procedure must be followed during step I:

(A) An aggrieved member may obtain a grievance form from the departmental grievance counselor.

(B) The member must return the form to the chief of the department or to the departmental grievance counselor, who shall arrange a meeting between the member, the member's immediate supervisor, and the person or persons against whom the grievance was lodged. If the grievance was lodged against the chief of the department, the chief may send his representative.

(C) The immediate supervisor shall fully, candidly, and openly discuss the grievance with the member in a sincere attempt to resolve it.

(D) Regardless of the outcome of the meeting, the immediate supervisor shall respond in writing to the member, with a copy to the grievance counselor, not later than the fifth working day after the date on which the meeting occurred. The response must include the supervisor's evaluation and proposed solution. The response shall either be personally delivered to the member or be mailed by certified mail, return receipt requested, to the last home address provided by the member.

(E) If the proposed solution is not acceptable, the member may file a step II grievance form with the chief of the department or the departmental grievance counselor. If the aggrieved member fails to timely file a step II grievance form, the solution is considered accepted.

(2) The following procedure must be followed during step II:

(A) If the member rejects the proposed solution, the member must complete a step II grievance form and return it to the chief of the department or to the departmental grievance counselor not later than the fifth day after the date on which the member received the supervisor's response.

(B) The departmental grievance counselor shall arrange a meeting between the member, the member's immediate supervisor, and the chief of the department or the chief's representative of at least the rank of assistant chief or the equivalent. The meeting must be held not later than the fifth working day after the date on which the step II grievance form was submitted to the chief or departmental grievance counselor.

(C) Regardless of the outcome of the meeting, the chief, or the chief's representative, shall provide the member with a written response to the grievance not later than the 10th working day after the date on which the meeting occurred. The response shall either be personally delivered to the member or be mailed by certified mail, return receipt requested, to the last home address provided by the member.

(D) If the proposed solution is not acceptable, the member may file a step III grievance form with the director. If the member fails to timely file a step III grievance form, the solution is considered accepted.

(3) The following procedure must be followed during step III:

(A) If the member rejects the proposed solution, the member must complete a step III grievance form and return it to the director not later than the 10th day after the date on which the member received the chief's response.

(B) The director shall arrange a hearing with the member and a grievance examiner to be chosen by the commission under Subsection (e) of this section. The

hearing must be held not later than the 15th working day after the date on which the step III grievance form was submitted to the director.

(C)(i) A hearing is conducted as an informal administrative procedure. Grievances arising out of the same or similar fact situations may be heard. A court reporter shall record the hearing. All witnesses shall be examined under oath.

(ii) The member, the member's immediate supervisor, the chief of the department, and all persons specifically named in the grievance are parties to the hearing.

(iii) The burden of proof is on the aggrieved member.

(D) The grievance examiner shall make written findings and a recommendation for solution of the grievance not later than the 10th working day after the date on which the hearing concluded. The findings and recommendation shall be given to the commission and copies mailed to the member by certified mail, return receipt requested, to the last home address provided by the member, and to the chief of the department.

(E) If the proposed solution is not acceptable to either the member or the chief of the department, either party may file a step IV grievance form with the director. If the member or the chief fails to timely file a step IV grievance form, the solution is considered accepted.

(4) The following steps must be followed during step IV:

(A) If the chief or the member rejects the proposed solution, the chief or member must complete a step IV grievance form and return it to the director not later than the 10th day after the date on which the chief or member received the hearing examiner's recommendation.

(B) The commission shall review the grievance examiner's findings and recommendation and consider the transcript of the hearing at the commission's next regularly scheduled meeting or as soon as is practicable.

(C) The commission's decision shall be based solely on the transcript and demonstrative evidence offered and accepted at the step III hearing. The commission shall furnish the member, the chief of the department, and the grievance examiner with a written copy of its order. The copy to the member shall be mailed by certified mail, return receipt requested, to the last home address provided by the member. The decision of the commission is final.

(e)(1) The commission shall appoint a grievance examiner by a majority vote. An examiner may not be affiliated with any other city department and is responsible only to the commission. The commission shall pay an examiner from a special budget established for this purpose, and the director shall provide an examiner sufficient office space and clerical support.

(2) The commission may appoint more than one grievance examiner if more than one examiner is required. The commission may appoint a different grievance examiner for each grievance.

(f) The grievance examiner appointed by the commission may:

(1) impose a reasonable limit on the time allowed each party and the number of witnesses to be heard;

(2) administer oaths;

(3) examine a witness under oath;

(4) subpoena and require the attendance or production of witnesses, documents, books, or other pertinent material; and

(5) accept affidavits instead of or in addition to live testimony.

(g) If the aggrieved member's immediate supervisor is the chief of the department, the steps prescribed by Subsections (d)(1) and (d)(2) of this section are combined. The chief of the department shall meet with the aggrieved member and may not appoint a representative.

(h)(1) A member may represent himself or obtain a representative at any time during the grievance procedure. The representative is not required to be an attorney. The city is not obligated to provide or pay the costs of providing representation.

(2) A member may take reasonable time off from a job assignment to file a grievance and attend a meeting or hearing. Time taken to pursue a grievance may not be charged against a member.

(i) A chief of a department, with the approval of the commission, may change the procedure prescribed by Subsections (d)(1) and (d)(2) of this section to reflect a change in a department's chain of command.

(j) If the final day to file a grievance form is on a Saturday, Sunday, or city holiday, the time period shall be extended through the next regular city work day.

(k) The director shall provide a suitable notice explaining this grievance procedure and furnish copies to each department. Each chief of a department shall cause the notices to be posted in a prominent place or places within the work areas of the department so as to give reasonable notice of the grievance procedure to all members of the department.

(l) If requested to do so by the chief of the department of a member who has filed a grievance under this procedure, the legal department of the city or the director shall assist in resolving the grievance.

(m) The director is the official final custodian of all records involving grievances. A depository for closed files regarding grievances shall be maintained in the civil service department.

SECTION 14. Section 4 of Chapter 432, Acts of the 64th Legislature, Regular Session, 1975 as amended by Sec. 1 and Sec. 2 of Chapter 821, Acts of the 67th Legislature, Regular Session, 1981 (Section 4 of Article 6243e.2, Vernon's Annotated Civil Statutes), as amended, is amended to read as follows:

Sec. 4. PENSION AND ADDITIONAL PENSION ALLOWANCES; SERVICE RETIREMENT; ELECTIONS; CONTRIBUTIONS; CERTIFICATE OF SERVICE; LIMITS; ANNUAL ADJUSTMENTS. (a) Any person who has been duly appointed and enrolled and who has attained the age of 50 years, and who has served actively for a period of 20 years or more and has participated in a fund in a city which is within the provisions of this Act, shall be entitled to be retired from the service or department and shall be entitled to be paid from the firemen's relief and retirement fund of that city or town, a monthly pension equal to 50 percent of his average salary for the highest 36 months of his service. Any fireman shall be entitled to be paid in addition to the benefits provided for in this subsection an additional pension allowance of one percent of his average monthly salary for the highest 36 months during his participation for each year of service after the date on which such fireman shall be entitled to be retired.

(b) A fireman who has 20 years of service and participation in a fund [~~under this section~~] may~~[-if he so elects,]~~ be retired from the department and receive a monthly pension allowance of 35 percent of his average monthly salary for the highest 36 months during his participation. If the fireman shall participate in the fund for a period in excess of 20 years he shall, in addition to the monthly pension allowance of 35 percent be paid an additional monthly pension allowance equal to three percent of his average monthly salary for each year of service in excess of 20 years until the fireman completes 25 years of service thereby providing a monthly pension allowance equal to 50 percent of the fireman's average monthly salary for the highest 36 months during his participation. If the fireman remains in the active service for a period in excess of 25 years, he shall receive, in addition to the pension allowances provided for in Subsection (b) of this section, an additional monthly pension allowance equal to one percent of his average salary for each year of participation in excess of 25 years.

(c) From and after July 1, 1986 a fireman who completes 20 years of service and participation in this fund may be retired from the department and receive a

monthly pension allowance of 40 percent of his average monthly salary for the highest 36 months during his participation. If the fireman shall participate in the fund for a period in excess of 20 years he shall, in addition to the monthly pension allowance of 40 percent be paid, upon retirement an additional monthly pension allowance equal to two percent of his average monthly salary for the highest 36 months during his participation for each year of service in excess of 20 years until the fireman completes 30 years of service, thereby providing a monthly pension not to exceed 60 percent of the fireman's average monthly salary for the highest 36 months during his participation. If the fireman remains in the active service for a period in excess of 30 years, he shall receive a monthly pension of 60 percent of his average monthly salary for the highest 36 months during his participation.

~~[(c)]~~ (d) The maximum pension allowance to be received by any fireman ~~[under this section or Section 6 or 7 of this Act]~~ shall not exceed 60 percent of the fireman's average monthly salary for the highest 36 months during his participation, except as it may be adjusted pursuant to subsection (g), (h), (i) or (j) of this section.

(e) ~~[(d)]~~ Any eligible and qualified fireman who has completed 20 years of service or more and of participation in a fund in a city to which this section is applicable, before reaching the age of 50 years, may apply to the board of trustees for, and the board shall issue, a certificate showing the completion of service and showing and certifying that the fireman, when reaching the age of 50 years, is entitled to the retirement and other applicable benefits of this Act. When any fireman is issued a certificate he is, when reaching retirement age, entitled to all the applicable benefits of this Act, even though he is not engaged in active service as a fireman after the issuance of the certificate. However, the fireman shall continue to pay his pension contribution monthly or in advance until the fireman reaches retirement age. Any fireman who does not make his pension contribution monthly or in advance shall automatically forfeit any retirement or other benefits he or his beneficiaries may have been entitled to under this Act.

~~[(e)]~~ (f) All firemen entering a fire department coming within the provisions of this section after the effective date of this Act shall retire under the benefit provisions of either Subsection (a), (b) or (c) of this section unless the retirement is for disability.

~~[(f)]~~ (g) All firemen who retire under the provisions of this section or Section 6 or 7 of this Act shall have their retirement allowances adjusted annually in accordance with the Consumer Price Index for Urban Consumers ~~[Wage Earners and Clerical Workers]~~ as determined by the United States Department of Labor. The adjusted pension allowance shall never be less than the amount granted the member on the date of his retirement without regard to changes in the consumer price index. The adjusted pension allowance shall never be more than the amount granted the member on the date of his retirement increased by three percent annually notwithstanding a greater increase in the consumer price index. This subsection shall not apply in any instance where a retired fireman is eligible for an adjustment under subsection (h) or (i) of this section.

~~[(g)]~~ (h) All firemen who retire after March 1, 1982, under the provisions of this section or Section 6 or 7 of this Act upon reaching the age of 55 shall have their pensions adjusted annually upward or downward in accordance with the percentage change in the Consumer Price Index for All Urban Consumers ~~[Wage Earners and Clerical Workers]~~ as determined by the United States Department of Labor. The adjusted pension shall never be less than the basic pension granted the member on the date of his retirement without regard to changes in the consumer price index. The adjusted pension shall never be more than the amount granted the member on the date of his retirement increased by three percent annually not compounded, notwithstanding a greater increase in the consumer price index. The adjustment provided by this subsection shall be the only postretirement adjustment paid to firemen retiring after March 1, 1982.

(i) A pension that becomes payable after July 1, 1986, under the provisions of this section or Section 6 or 7 of this Act and that is based on the service of a fireman with 30 or more years of service or who has reached the age of 55 shall be adjusted annually upward or downward in accordance with the percentage change in the Consumer Price Index for All Urban Consumers as determined by the United States Department of Labor. Notwithstanding a greater change in the consumer price index, an annual adjustment may not exceed three (3) percent, not compounded. The total amount of a pension adjusted under this subsection may never be less than the basic pension granted at the time of retirement or death or more than the sum of the amount granted at the time of retirement or death plus an increase of three (3) percent annually, not compounded.

~~[(h)]~~ (j) All pensioners who retired prior to May 3, 1971, or their survivors shall have their pensions increased in an [adjusted on a one-time basis in an] amount [equal to 20 percent of their pension payment. However, in no instance shall the increase be less than \$15 a month] of \$100.00 a month. This postretirement adjustment shall be from and after January 1, 1986 [effective September 1, 1981].

SECTION 15. Section 6 of Chapter 432, Acts of the 64th Legislature, Regular Session, 1975 (Section 6 of Article 6243e.2, Vernon's Annotated Civil Statutes), is amended to read as follows:

Sec. 6. ~~DISABILITY [RETIREMENT; AMOUNT OF PENSION; SERVICE RETIREMENT ELECTION].~~ (a) Whenever a fireman becomes physically or mentally disabled while in or as a consequence of the performance of his duty or becomes physically or mentally disabled from any cause whatsoever after he has participated in a fund for a period of 20 years or more, the board of trustees shall, on his request, or without a request, if they determine that the fireman is not capable of performing the usual and customary duties of his classification or position, retire the fireman on a monthly disability allowance of an amount equal to 50 percent of his average monthly salary for the highest 36 months during his service, or so much thereof as he may have served.

(b) Whenever a fireman becomes disabled from any cause other than a disability acquired in the performance of his duty as a fireman, a monthly pension allowance shall be paid to the fireman. Such monthly pension allowance shall be equal to 25 percent of the average monthly salary of the fireman, plus two and one-half percent of the average monthly salary for each full year of service and of participation in a fund, except that the monthly pension allowance shall not exceed 50 percent of the average monthly salary. The average monthly salary shall be based on the monthly average of the fireman's salary for the highest 36 months during service, or so much as he may have served preceding the date of the retirement.

(c) If the fireman is eligible to be retired under the provisions of Section 4 of this Act, he may elect to have his monthly pension allowance calculated under that section.

SECTION 16. Section 7 of Chapter 432, Acts of the 64th Legislature, Regular Session, 1975 (Section 7 of Article 6243e.2, Vernon's Annotated Civil Statutes), as amended is amended to read as follows:

Sec. 7. ~~CALCULATION OF BENEFITS UPON DEATH [DEATH OR DISABILITY FROM ANY CAUSE OTHER THAN PERFORMANCE OF DUTY; MONTHLY PENSION ALLOWANCE TO FIREMAN OR BENEFICIARY; COMPUTATION; SERVICE RETIREMENT ELECTION; ANNUAL ADJUSTMENT].~~ (a) For the purpose of the calculation of the survivor benefits described in Section 11 of this Act the pension amount being paid to a retired fireman at the time of his death shall be utilized. In any instance where a fireman dies before retirement or before pension benefits are commenced the Board shall calculate the pension amount under the applicable sections of this Act and such amount shall be utilized for the calculation of survivor benefits.

(b) Whenever a fireman dies in the course of the performance of his duty or dies after being placed on disability from injuries received during the performance of his duty his benefits shall be calculated at 100% of his average monthly salary, the average monthly salary shall be based upon the monthly average of the fireman's salary for the highest 36 months during service.

~~[(a) Whenever a fireman dies or becomes disabled from any cause other than a disability acquired in the performance of his duty as a fireman, a monthly pension allowance shall be paid to the fireman or his beneficiaries.~~

~~[(b) The monthly pension allowance shall be computed as follows:~~

~~[(1) If the fireman becomes disabled, he shall be paid a monthly pension allowance equal to 25 percent of the average monthly salary of the fireman, plus two and one-half percent of the average monthly salary for each full year of service and of participation in a fund except that the monthly pension allowance shall not exceed 50 percent of the average monthly salary. The average monthly salary shall be based on the monthly average of the fireman's salary for the highest 36 months during service, or so much as he may have served preceding the date of the retirement.~~

~~[(2) If the fireman was eligible to be retired under the provisions of Section 4 of this Act, he or his beneficiaries may elect to have their monthly pension allowance calculated under that section.~~

~~[(3) If a fireman dies and leaves surviving him both a widow who married the fireman prior to his retirement, and a child or children of the fireman under the age of 18 years, the board of trustees shall order paid to the widow of the fireman a monthly pension allowance equal to one-half of the amount the fireman would have been entitled to receive, if disabled, under the provisions of Subdivision (1) of this subsection, and in addition the board of trustees shall order paid to the widow or other person having the care and custody of the child or children under the age of 18 years a monthly pension allowance for the use and benefit of the child or children equal to the amount provided for the widow. If the fireman leaves no children under the age of 18 years surviving him or if at any time after the death of the fireman no child is entitled to allowance, then the monthly pension allowance to be paid the widow shall be equal to the full amount the fireman would have been entitled to receive, if disabled, under Subdivision (1) of this subsection.~~

~~[(4) If the fireman dies and if his widow dies after being entitled to her allowance, or in the event that there is no widow to receive an allowance, the amount of the monthly pension allowance to be paid, for use and benefit of the child or children under the age of 18 years, to the person having the care and custody of the child or children shall be computed as follows: an amount equal to the full amount the fireman would have been entitled to receive, if disabled, under the provisions of Subdivision (1) of this subsection shall be paid for each of the fireman's children under the age of 18 years, except that the total monthly pension shall not exceed the amount to which the fireman would have been entitled under Subdivision (1) of this subsection. If the fireman dies and if his widow dies after being entitled to her allowance, or in the event that there is no widow to receive an allowance, the amount of the monthly pension allowance shall be extended to a child or children on proof to the board of trustees that the child or children are unmarried, a full-time student and between the ages of 18 and 22; the monthly pension shall be extended only for the period of time the child remains a full-time student; the monthly pension allowance shall be paid directly to the child or children and shall be an amount equal to the full amount the fireman would have been entitled to receive, except that the total amount shall not exceed the amount to which the fireman would have been entitled under Subdivision (1) of this subsection.~~

~~[(5) If the fireman dies and only if no widow or child is entitled to an allowance under the provisions of this section, a monthly pension allowance equal~~

to one-half of the amount the fireman would have been entitled to receive, if disabled, under Subdivision (1) of this subsection shall be paid to each parent of the deceased fireman on proof to the board of trustees that the parent was dependent on the fireman immediately prior to the death of the fireman, except that the total monthly pension allowance provided for parents shall not exceed the full amount the fireman would have been entitled to receive.

~~[(c)]~~ Allowance or benefits payable under the provisions of this section for any minor child shall cease when that child becomes 18 years of age or marries. If a fireman who is covered by a provision of this Act dies and leaves a child who is totally disabled as a result of a physical or mental illness, injury, or retardation, that child is entitled to receive any pension allowance to which he is entitled under this Act and is further entitled to continue receiving the allowance so long as he remains totally disabled. If the child is not entitled to a pension allowance under this Act solely because he is over the maximum age at the time of the death of his parent and the child is totally disabled as a result of a physical or mental illness, injury, or retardation, the child is entitled to receive as an allowance that to which he would have been entitled had he been under the maximum age at the time of the death of his parent.

~~[(d)]~~ (c) The provisions of this section are not applicable to a fireman or his beneficiaries if the fireman's death or disability results from suicide or attempted suicide before the fireman has completed two years of service with the fire department for which he was employed.

~~[(e)]~~ The wife of a deceased fireman who had served actively for a period of 20 years or more in a regularly active fire department shall, insofar as the provisions of this section are concerned, be considered the fireman's widow as long as she is not married, notwithstanding that she may have married and divorced or married after the fireman died and she became a widow. A widow covered under this section shall be limited to the pension allowance of the deceased member of this fund, to whom she was last married.

~~[(f)]~~ (d) The monthly pension of beneficiaries of a deceased fireman whose pension benefits were subject to the adjustment under the provisions of Sections 4(c), 4(h), 4(i) or 4(j) ~~[or 4(g)]~~ of this Act shall be adjusted in the same manner.

SECTION 17. Section 11, Chapter 432 Acts of the 64th Legislature, Regular Session, 1975 (Article 6243e.2, Vernon's Annotated Civil Statutes), as amended is amended to read as follows:

Sec. 11. (a) If a member of a fire department who is eligible for benefits under this Act or who is receiving retirement benefits under this Act dies, his survivors, as described below, shall be entitled to a continuation of his benefits pursuant to this section and Section 7 of this Act. [If a member of a fire department who has been retired on allowances because of length of service or disability dies from any cause whatsoever, or if while in service any member dies from any cause growing out of or in consequence of the performance of his duty and the member is participating in a fund, or dies from any cause whatsoever after he has become entitled to an allowance or pension certificate, and if] If the fireman leaves surviving a widow, a child or children under the age of 18 years, a child who is over the age of 18 who is totally disabled as a result of a physical or mental illness, injury, or retardation, or a dependent parent or parents, the board of trustees shall order paid a monthly pension allowance. [which shall be based on the amount which the fireman would have been entitled to receive had he continued to live and be retired on allowance at the date of his death.] The allowance or allowances shall be calculated and paid as follows:

(1) If a fireman dies and leaves surviving him both a widow who married the member prior to his retirement and a child or children of the member under the age of 18 years, the board of trustees shall order paid to the widow of the member

a monthly pension allowance equal to one-half of the amount the member would have been entitled to receive, and in addition the board of trustees shall order paid to the widow or other person having care and custody of the child or children under the age of 18 years a monthly pension allowance, for the use and benefit of the child or children, equal to the amount provided for the widow. If the member leaves no child under the age of 18 years surviving him or if at any time after the death of the member no child is entitled to allowance, then the monthly pension allowance to be paid the widow shall be equal to the full amount the member would have been entitled to receive.

(2)(A) If the member dies and if his widow dies after being entitled to her allowance, or in the event that there is no widow to receive an allowance, the amount of the monthly pension allowance to be paid, for use and benefit of the child or children under the age of 18 years, to the person having the care and custody of the child or children shall be computed as follows: an amount equal to the full amount the member would have been entitled to receive shall be paid for the member's children under the age of 18 years, except that the total monthly pension provided for children shall not exceed the amount to which the member would have been entitled to receive.

(B) If the fireman dies and if his widow dies after being entitled to her allowance, or in the event that there is no widow to receive an allowance, the amount of the monthly pension allowance shall be extended to a child or children on proof to the board of trustees that the child or children are unmarried, a full-time student and between the ages of 18 and 22; the monthly pension shall be extended only for the period of time the child remains a full-time student; the monthly pension allowance shall be paid directly to the child or children and shall be an amount equal to the full amount the fireman would have been entitled to receive, except that the total amount shall not exceed the amount to which the fireman would have been entitled under Subdivision (1) of this subsection.

(3) If the member dies and only if no widow or child is entitled to an allowance under the provisions of this section, a monthly pension allowance equal to one-half of the amount the member would have been entitled to receive shall be paid to each parent of the deceased member on proof to the board of trustees that the parent was dependent on the member immediately prior to the death of the member, except that the total monthly pension allowance provided for parents shall not exceed the full amount the member would have been entitled to receive.

(b) Allowance or benefits payable under the provisions of this section for any minor child shall cease when the child becomes 18 years of age or marries, except that if a fireman who is covered by a provision of this Act dies and leaves a child who is totally disabled as a result of a physical or mental illness, injury, or retardation, that child is entitled to receive any pension allowance to which he is entitled under this Act and is further entitled to continue receiving the allowance so long as he remains totally disabled. If the child is not entitled to a pension allowance under this Act solely because he or she is over the maximum age at the time of the death of his or her parent and the child is totally disabled as a result of a physical or mental illness, injury, or retardation, the child is entitled to receive as an allowance that to which he or she would have been entitled had he or she been under the maximum age at the time of the death of his parent.

(c) The wife of a deceased fireman ~~[who has been retired on disability allowances because of length of service or has been retired for disability after having actively served for a period of 20 years or more]~~ shall, insofar as the provisions of this section are concerned, be considered the fireman's widow as long as she is not married, notwithstanding that she may have married and divorced or married and became a widow after such fireman died. A widow covered under this section shall be limited to the pension allowance of the deceased member to whom she was last married.

(d) A fireman may designate a trustee for any beneficiary, other than their spouse, who may be eligible, pursuant to this Act, to receive an allowance or benefits. The fireman shall file a written designation with the Board of Trustees of the Firemen's Relief and Retirement Fund stating his appointment of a trustee. Such designation shall include the name and the address of the trustee, the name of the eligible beneficiary or beneficiaries to whom he or she intends to appoint a trustee. The Board shall upon the death of the fireman pay any allowance or benefits to the designated trustee for the benefit of the stated beneficiary.

SECTION 18. Chapter 432, Acts of the 64th Legislature, Regular Session, 1975 (Article 6243e.2, Vernon's Annotated Civil Statutes), is amended by adding a new Section 6A to read as follows:

Sec. 6A. The Board of Trustees of any firemen's relief and retirement fund shall establish benefit eligibility for a fulltime employee who has been employed for as long as six (6) years, and thereafter becomes disabled or dies from heart or lung disease or cancer, based upon a presumption that such death or disease was a consequence of his duties as a fireman, if the fireman shall have successfully passed a physical examination prior to the claimed disability or death, or upon entering upon his employment as a fireman, and the examination failed to reveal any evidence of the condition or disease of the lungs, hypertension, cancer or heart disease. Such benefit eligibility and such presumption shall be for the purposes only of such pension benefit to which such employee may be entitled under this Act.

SECTION 19. Chapter 325, Acts of the 50th Legislature, Regular Session, 1947 (Article 1269m, Vernon's Texas Civil Statutes), is amended by adding Section 30 to read as follows:

Sec. 30. INTERROGATION AND RIGHTS IN CERTAIN CITIES. (a) This section applies to a fire fighter or police officer who is employed by a city having a population of 1,500,000 or more according to the most recent federal census.

(b) In this section:

(1) "Employee" means a fire fighter or police officer employed by the city who holds a position that is classified under this Act and who has completed the probationary period specified in Section 12 of this Act.

(2) "Investigation" means any administrative investigation conducted by the city of any alleged misconduct by an employee that could result in punitive action against that employee.

(3) "Investigator" means any agent or employee of the city who is assigned to conduct an investigation.

(4) "Punitive action" means a disciplinary suspension, indefinite suspension, demotion in rank, or any combination of those actions.

(c) An investigator may interrogate an employee who is the subject of an investigation only during the employee's normally assigned working hours unless:

(1) as determined by the employee's department chief or the chief's designee, the seriousness of the investigation requires interrogation at another time; and

(2) the employee is compensated for the interrogation time on an overtime basis.

(d) The department chief may not consider work time missed from regular duties by an employee due to participation in the conduct of an investigation in determining whether to impose a punitive action or in determining the severity of a punitive action.

(e) Investigators may not interrogate an employee who is subject to an investigation at the employee's home without the permission of the employee.

(f) An employee who is subject to an investigation has the right to inquire and, on inquiry, to be informed of the identities of all investigators taking part in any interrogation of the employee.

(g) Before an investigator may interrogate an employee who is subject to an investigation, the investigator must inform the employee in writing of the nature

of the investigation and the names of the persons who have complained about the employee concerning the matters under investigation. An investigator may not conduct an interrogation of an employee based on a complaint by a person who is not a peace officer unless the person verifies the complaint in writing before a public officer who is authorized by law to take statements under oath. An investigator may interrogate an employee about events or conduct reported by a witness who is not a complainant without disclosing the name of the witness. As used in this subsection, "complainant" means a person claiming to be the victim of police misconduct. This subsection does not prohibit an interrogation based on a complaint from an anonymous complainant if the departmental employee receiving the anonymous complaint certifies in writing, under oath, that the complaint was indeed anonymous. This subsection does not apply to on-the-scene investigations that occurred immediately after an incident being investigated if the limitations of this subsection would unreasonably hinder the essential purpose of the investigation or interrogation. If the limitation would hinder the investigation or interrogation, the employee under investigation must be furnished, as soon as practicable, with a written statement of the nature of the investigation and the names of the complaining parties.

(h) An interrogation session of an employee who is subject to an investigation may not be unreasonably long. In determining reasonableness, the gravity and complexity of the investigation must be considered. The investigators shall allow reasonable interruptions to permit the employee to attend to personal physical necessities.

(i) Investigators may not threaten an employee who is subject to an investigation with punitive action during an interrogation. However, an investigator may inform an employee that failure to truthfully answer reasonable questions directly related to the investigation or to fully cooperate in the conduct of the investigation may result in punitive action.

(j) If prior notification of intent to record an interrogation is given to the other party, either the investigators or the employee subject to an interrogation may record the interrogation.

(k) If an investigation does not result in punitive action against an employee, but does result in a reprimand recorded in writing or an adverse finding or determination regarding the employee, the reprimand, finding, or determination may not be placed in a personnel file maintained on the employee unless the employee is first given an opportunity to read and sign the reprimand, finding, or determination. If the employee refuses to sign the reprimand, finding, or determination, it may be placed in the personnel file with a notation that the employee refused to sign it. An employee may respond in writing to any reprimand, finding, or determination that is placed in the employee's personnel file under this subsection by submitting a written response to the department chief not later than the 10th day after the date on which the employee was asked to sign the document. The response shall be placed in the personnel file. An employee who receives a punitive action and who elects not to appeal the action may file a written response as prescribed by this subsection not later than the 10th day after the date on which the employee is given written notice of the punitive action from the department chief.

The amendments were read.

Senator Whitmire moved to concur in the House amendments.

On motion of Senator Whitmire and by unanimous consent, the motion to concur was withdrawn.

Senator Whitmire moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 540 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Whitmire, Chairman; Brooks, Brown, Henderson and Washington.

SENATE RULE 103 SUSPENDED

On motion of Senator Parker and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Education might consider the following bills Saturday, May 25, 1985:

H.B. 408

H.B. 682

H.B. 1731

H.B. 2036

H.B. 2104

H.B. 2152

SENATE RULE 74a SUSPENDED

On motion of Senator Farabee and by unanimous consent, Senate Rule 74a was suspended as it relates to House amendments to S.B. 1170.

SENATE BILL 1170 WITH HOUSE AMENDMENTS

Senator Farabee called S.B. 1170 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.
Floor Amendment No. 1 - J. Harris

Amend S.B. 1170 by adding a new Section 7 thereof, and renumbering the remaining sections accordingly, to read as follows:

"SECTION 7. Section 5.06, Medical Practice Act, as amended (Article 4495b, Vernon's Texas Civil Statutes), is amended to read as follows:

"Sec. 5.06. (a) Any medical peer review committee in this state, [and] any physician licensed to practice medicine or otherwise lawfully practicing medicine in this state, any physician engaged in graduate medical education or training, or any medical student may report relevant [facts] information to the board relating to the acts of any physician in this state if, in the opinion of the medical peer review committee, [or the] physician, or medical student, [they have knowledge] that information relating to the physician [that] reasonably raises a question with respect to his competency.

(b) Any committee of a professional society comprised primarily of physicians, its staff, or any district or local intervenor participating in a program established to aid physicians whose ability to practice medicine is impaired by drug or alcohol abuse or mental or physical illness may report to the board the name of the impaired physician together with the pertinent information relating to that impairment. A professional society in this state comprised primarily of physicians that takes formal disciplinary action against a member relating to professional ethics, medical incompetency, moral turpitude, or drug or alcohol abuse may also report [in writing] to the board the name of the member, together with the pertinent information relating to the action.

(e)(3) In no event may records and reports disclosed pursuant to this article by the board to others, or reports and records received, maintained, or developed by the board, [or disclosed by the board to others, pursuant to this article,] by a medical organization committee described in subsections (a) or (b) of this section, or by a member of such a committee, be available for discovery or court subpoena or introduced into evidence in a medical professional liability suit [or other action for damages] arising out of the provision of or failure to provide medical or health care services, or in any other action for damages.

(f) The following persons are immune from civil liability:

(1) a person reporting to or furnishing information to a medical peer review committee;

(2) [a member, employee, or agent of the medical peer review committee who assists in the organization, investigation, or preparation of information or who makes a report on other information available to the board pursuant to this subsection; and] a member, employee, or agent of the board, a member, employee, or agent of a medical peer review committee, a member, employee, or agent of a medical organization committee, or a medical organization district or local intervenor who takes any action or makes any recommendation within the scope of the functions of the board, committee, or intervenor program, if such member, employee, or agent acts without malice and in the reasonable belief that such action or recommendation is warranted by the facts known to him;

~~[(3)]~~ (4) any member or employee of the board or any person who assists the board in carrying out its duties or functions provided by law.

Floor Amendment No. 2 - Craddick

Amend S.B. 1170 by adding a new Section 7 thereof, and renumbering the remaining sections accordingly, to read as follows:

"SECTION 7. Section 5.09, Medical Practice Act, as amended (Article 4495b, Vernon's Texas Civil Statutes), is amended to read as follows:

"Sec. 5.09. **AUTHORITY TO SUPPLY DRUGS.** (a) Notwithstanding any other laws, a [A] person licensed to practice medicine under this Act is authorized to supply [the needs of his patients with] any drugs or remedies as are necessary to meet the patients' immediate needs[;]. [provided, however,] A licensed physician may be reimbursed for the cost of supplying dangerous drugs and controlled substances for patients' immediate needs without obtaining a license under the Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes). However, this [section] subsection does not otherwise permit the physician to operate a retail pharmacy without first complying with the Texas Pharmacy Act.

"(b) A licensed physician who practices medicine in a rural area in which there is no pharmacy may maintain a supply of dangerous drugs and controlled substances in the office of the physician to be dispensed in the course of treating the physician's patients and may be reimbursed for the cost of supplying those drugs without obtaining a license under the Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes). [Such physicians shall comply with all appropriate labeling sections applicable to this class of drugs under the Texas Pharmacy Act, and oversee compliance with packaging and recordkeeping sections applicable to this class of drugs.] For the purposes of this subsection:

"(1) the term rural area means an area in which there is no pharmacy within a 15-mile radius of the physician's office, and is within:

"(A) a county with a total population of 5,000 or less according to the most recent federal census; or

"(B) a city or town, incorporated or unincorporated, with a population of less than 2,500, according to the most recent federal census, but shall not include a city

or town, incorporated, or unincorporated, whose boundaries are adjacent to an incorporated city or town with an equal or greater population.

"[(2)] (c) [the] The term "reimbursed for cost" as used in this section shall mean an additional charge separate from that made for the physician's professional services which includes the cost of the drug product and all other actual costs to the physician incidental to providing the dispensing service but not including a separate fee for the act of dispensing the drug product itself.

"(d) Physicians who supply dangerous drugs or controlled substances to their patients under Subsections (a) or (b) of this section shall comply with all appropriate labeling requirements under the Texas Pharmacy Act and shall oversee compliance with all applicable packaging and recordkeeping requirements."

Amendment No. 3 - S. Thompson

Amend S.B. 1170 as follows:

(1) On page 1, line 21 add "If after hearing all evidence and arguments in open meeting," after the period.

(2) On page 11, lines 1-3 reinstate the stricken language beginning with [All] and ending with [rules.]

The amendments were read.

Senator Farabee moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 1170 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Farabee, Chairman; Edwards, Lyon, Sharp and Whitmire.

SENATE RULE 103 SUSPENDED

On motion of Senator Santiesteban and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Natural Resources might consider the following bills today:

H.B. 1745

H.B. 2499

H.B. 2479

H.B. 245

H.B. 1346

BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolutions:

S.J.R. 9

S.J.R. 21

S.C.R. 48

S.C.R. 73

S.C.R. 84

S.C.R. 108

S.B. 209

S.B. 221

S.B. 229

S.B. 245

S.B. 255

S.B. 262

S.B. 760

S.B. 793

S.B. 820

S.B. 821

S.B. 829

S.B. 839

S.C.R. 109	S.B. 289	S.B. 845
S.C.R. 110	S.B. 291	S.B. 858
S.C.R. 111	S.B. 317	S.B. 866
S.C.R. 131	S.B. 334	S.B. 901
S.C.R. 135	S.B. 371	S.B. 906
S.C.R. 143	S.B. 482	S.B. 978
S.C.R. 144	S.B. 518	S.B. 1034
S.C.R. 147	S.B. 523	S.B. 1052
S.C.R. 151	S.B. 528	S.B. 1055
S.C.R. 152	S.B. 532	S.B. 1114
S.C.R. 153	S.B. 544	S.B. 1115
S.C.R. 155	S.B. 575	S.B. 1153
S.C.R. 156	S.B. 589	S.B. 1155
S.B. 48	S.B. 607	S.B. 1228
S.B. 59	S.B. 620	S.B. 1224
S.B. 69	S.B. 640	S.B. 1243
S.B. 85	S.B. 656	S.B. 1245
S.B. 175	S.B. 679	S.B. 1330
S.B. 195	S.B. 700	S.B. 1335
S.B. 201	S.B. 716	S.B. 1336
S.B. 203	S.B. 719	S.B. 1391
S.B. 204	S.B. 723	S.B. 1427
S.B. 205	S.B. 750	S.B. 1437

S.B. 1171 (Signed subject to Art. III, Sec. 49a of the Constitution)

RECESS

On motion of Senator Mauzy, the Senate at 4:38 o'clock p.m. took recess until 4:50 o'clock p.m. today.

AFTER RECESS

The Senate met at 4:50 o'clock p.m. and was called to order by Senator Blake.

MESSAGE FROM THE HOUSE

House Chamber
May 24, 1985

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.C.R. 191, Granting Bob Bass permission to sue the Department of Highways and Public Transportation.

H.C.R. 192, Granting Bob Bass permission to sue the Department of Highways and Public Transportation.

H.C.R. 194, Granting Bay, Inc. permission to sue the State.

H.C.R. 204, Granting Robert John Bodisch permission to sue the State.

H.C.R. 205, Granting Hartford Steam Boiler Inspection and Insurance Company permission to sue the State.

H.C.R. 206, Granting Tom W. Bradfield and Donald H. Cummins permission to sue the State and the State Department of Highways and Public Transportation.

H.C.R. 212, Granting Herzog Contracting Corp. permission to sue the State of Texas, the State Highway and Public Transportation Commission and the State Department of Highways and Public Transportation.

H.C.R. 213, Granting George Feliz Ramirez permission to sue the State.

H.C.R. 236, Honoring William H. Pieratt.

S.C.R. 57, Directing the Commission on Standards to include training in child abuse recognition in teacher education.

S.C.R. 74, Urging Texas universities to make a concerted effort to attract eminent scholars in the arts and humanities.

S.C.R. 130, Granting John P. Nieman, et al. permission to sue the State.

S.C.R. 140, Granting Stella Lerma and John Lerma permission to sue the State of Texas and the Texas School for the Deaf.

S.C.R. 83, Instructing the Central Education Agency to study and determine methods for screening students for learning disabilities.

S.C.R. 92, Directing state institutions of higher education to adopt a written intellectual property policy.

S.C.R. 97, Requesting assistance of the U.S. Coast Guard in policing offshore rig and shipping operations for dumping litter.

S.C.R. 99, Directing State agencies to establish public awareness programs regarding the problems of litter on Texas beaches.

S.C.R. 100, Directing the Texas Coastal and Marine Council to investigate the feasibility of ports in Texas creating incineration facilities to help reduce the litter.

S.C.R. 118, Expressing the importance of research and development and technological development to the State's economic future.

S.C.R. 123, Requesting the State Board of Insurance to investigate the feasibility of providing benefits or third-party reimbursement for a full range of long-term care services, including home care and community based...

S.C.R. 126, Requesting the governing board of the Texas School for the Deaf to undertake a study and submit a proposal to the 70th Legislature relating to the location and construction of a new facility.

S.C.R. 127, Requesting the cooperation of the Texas Department of Human Resources and TDMHMR in collaboratively planning for increasing and redirecting Medicaid funds to encourage community-based residential services.

S.C.R. 128, Requesting the cooperation of the TDMHMR and Department of Corrections in development of creative community-based alternatives for mentally disabled offenders.

S.C.R. 129, Requesting the cooperation of the TDMHMD, Central Education Agency, and the Texas Rehabilitation Commission in improving coordination of their services to persons with mental retardation.

S.B. 1122, Relating to the consent of minors and others to treatment by a physician, psychologist, counselor, or social worker in cases involving sexual abuse, physical abuse, or suicide prevention.

S.B. 1152, Relating to the regulation of certain secondary mortgage loans and lenders, including rates, method of payment, fees, and insurance.

S.B. 1184, Relating to the Family Farm and Ranch Security Program. (Amended)

S.B. 1450, Relating to distribution of the assets of a nonprofit corporation on dissolution of the corporation. (Amended)

S.B. 802, Relating to the taking of competitive bids and the issuance of certificates of obligation by cities. (Amended)

S.B. 435, Relating to the procedure for creation of enterprise zones and to the operation of the Enterprise Zone Board. (Amended)

S.B. 415, Relating to the offense of selling or delivering a substance containing a volatile chemical to a person younger than 17 years of age. (Amended)

S.B. 394, Relating to minimum standards of sanitation and safety for public swimming pools, including spas, and to certain definitions.

S.B. 346, Relating to the definition of abusable glue or aerosol paint under the Texas Controlled Substances Act. (As substituted)

S.B. 320, Relating to a defense to prosecution for the offense of delivering an abusable glue or aerosol paint to a person who is younger than 17 years of age.

S.B. 217, Relating to the organization of the Texas Department of Mental Health and Mental Retardation.

S.B. 127, Relating to licenses, fees, and exemptions involved in the regulation of the practice of cosmetology.

S.B. 344, Relating to a presumption in civil actions concerning the cost and necessity of services.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

LOCAL AND UNCONTESTED BILLS CALENDAR

The Presiding Officer (Senator Blake in Chair) announced that the time had arrived for consideration of the Local and Uncontested Bills Calendar.

The regular order of business having been suspended by provisions of **S.R. 8**, adopted by the 69th Legislature, the following bills/resolutions were laid before the Senate, read second time, passed to engrossment/third reading, read third time and passed: (Sponsor, vote on Constitutional Three-day Rule and final passage indicated after caption of each bill).

S.C.R. 154 (Barrientos) Granting John Monahan and the University Employees Union permission to sue the State of Texas and The University of Texas System. (vv)

S.C.R. 157 (Barrientos) Granting George Feliz Ramirez permission to sue the State of Texas and the Texas Department of Banking. (vv)

S.C.R. 158 (Barrientos) Granting Physicians Life Insurance Company permission to sue the State of Texas and the State Board of Insurance. (vv)

S.C.R. 159 (Barrientos) Granting Physicians Mutual Insurance Company permission to sue the State of Texas. (vv)

S.C.R. 164 (Barrientos) Granting Korba, Helfert and Zabel, Inc. permission to sue the State of Texas. (vv)

S.C.R. 167 (Barrientos) Granting Systems Marketing and Education, Inc., permission to sue the State of Texas. (vv)

C.S.S.B. 928 (Washington) Relating to the definition of "family" in Chapter 71, Family Code. (28-1) Washington "Nay" (29-0)

S.B. 1449 (Howard) Relating to the allocation and apportionment of certain taxes among persons interested in the estate of a decedent. (28-1) Washington "Nay" (29-0)

S.B. 1469 (Uribe) Relating to authority to establish a foreign trade zone in Pharr. (28-1) Washington "Nay" (29-0)

S.B. 1472 (Santiesteban) Relating to the creation of the Mowad Water District. (28-1) Washington "Nay" (29-0)

S.B. 1474 (Caperton) Relating to the creation of the Harris County Municipal Utility District No. 317. (28-1) Washington "Nay" (29-0)

S.B. 1475 (Caperton) Relating to the creation of the Harris County Municipal Utility District No. 318. (28-1) Washington "Nay" (29-0)

S.B. 1476 (Caperton) Relating to the creation of the Harris County Municipal Utility District No. 319. (28-1) Washington "Nay" (29-0)

H.B. 14 (Brooks) Relating to the notice required in a real estate transaction involving property near public beaches. (28-1) Washington "Nay" (29-0)

H.B. 168 (Whitmire) Relating to the mandatory grounds for refusing to issue certain alcoholic beverage licenses and permits. (28-1) Washington "Nay" (29-0)

C.S.H.B. 293 (Henderson) Relating to the management and operation of rural fire prevention district commissioners. (28-1) Washington "Nay" (29-0)

H.B. 435 (Edwards) Relating to memberships in associations and organizations of students in institutions of higher education. (28-1) Washington "Nay" (29-0)

H.B. 539 (Barrientos) Relating to the sale or lease of certain State-owned property by the Texas School for the Blind. (28-1) Washington "Nay" (29-0)

Senator Barrientos offered the following committee amendment to the bill:

Amend **H.B. 539** by adding the following sentence at the end of Section 1:

Provided, however, that no such sale or lease will be made for an amount less than the current appraised value of such real property or the current appraised leasehold value of such property.

On motion of Senator Barrientos and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

C.S.H.B. 730 (Barrientos) Relating to a violation of the Vital Statistics Act. (28-1) Washington "Nay" (29-0)

H.B. 773 (Barrientos) Relating to the regulation of guard dog companies. (28-1) Washington "Nay" (29-0)

C.S.H.B. 805 (Sharp) Relating to programs to coordinate procurement and use of human tissue and organs for transplant; to designation of gifts by organ donors on drivers' licenses; to compilation of information concerning willing donors. (28-1) Washington "Nay" (29-0)

H.B. 916 (Glasgow) Relating to competitive bidding on public works contracts. (28-1) Washington "Nay" (29-0)

Senator Glasgow offered the following committee amendment to the bill:

In Section 1 of **H.B. 916** amend Sec. 4 "Opening of Bids" by adding the word "price" after the word "bid" in the second sentence of Sec. 4 and placing the period after the word "price".

On motion of Senator Glasgow and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

H.B. 917 (Truan) Relating to the authority of a political subdivision to convey certain land without publishing notice and accepting bids. (28-1) Washington "Nay" (29-0)

H.B. 973 (Sims) Relating to contracts and tuition for the education of students residing in school districts that do not offer classes at all grade levels. (28-1) Washington "Nay" (29-0)

C.S.H.B. 1052 (Truan) Relating to a utility service for certain apartment houses. (28-1) Washington "Nay" (29-0)

H.B. 1075 (Sharp) Relating to the implementation of a comprehensive language services program by the Texas Employment Commission. (28-1) Washington "Nay" (29-0)

H.B. 1164 (Sharp) Relating to the duties of the county attorney of Lee County and to the powers and duties of the district attorney of the 21st Judicial District. (28-1) Washington "Nay" (29-0)

H.B. 1201 (Jones) Relating to the safety of certain amusement rides. (28-1) Washington "Nay" (29-0)

H.B. 1205 (Traeger) Relating to the notice required in a home-rule city for certain public hearings regarding zoning matters. (28-1) Washington "Nay" (29-0)

C.S.H.B. 1225 (Harris) Relating to the continuation of procedures for the allocation of the State ceiling on certain housing bonds. (28-1) Washington "Nay" (29-0)

H.B. 1303 (Edwards) Relating to the purchase of computers and computer-related equipment by school districts. (28-1) Washington "Nay" (29-0)

H.B. 1310 (Whitmire) Relating to assignment pay for certain hazardous materials response team personnel. (28-1) Washington "Nay" (29-0)

H.B. 1333 (Sharp) Relating to the issuance of bonds by the Matagorda County Hospital District. (28-1) Washington "Nay" (29-0)

H.B. 1349 (Harris) Relating to the creation of the County Court at Law No. 3 of Collin County and to the jurisdiction of and the compensation of the judges of the County Court at Law of Collin County and County Court at Law No. 2 of Collin County. (28-1) Washington "Nay" (29-0)

H.B. 1374 (Traeger) Relating to the powers, duties, and membership of the Texas Indian Commission, the authority of the tribal council of the Texas Band of Kickapoo Indians, and the tax-exempt status of sales made by or to band. (28-1) Washington "Nay" (29-0)

H.B. 1403 (Traeger) Relating to the registration period for a motor vehicle. (28-1) Washington "Nay" (29-0)

H.B. 1442 (Uribe) Relating to the sale or transfer of stock, memberships, and other rights of participation in certain water supply corporations. (28-1) Washington "Nay" (29-0)

H.B. 1478 (Mauzy) Relating to the terms of court of the 336th District Court. (28-1) Washington "Nay" (29-0)

H.B. 1747 (Leedom) Relating to the deposit in interest-bearing accounts of money seized in connection with certain controlled substances violations and gambling violations. (28-1) Washington "Nay" (29-0)

H.B. 1760 (Blake) Relating to registered family home advertisements. (28-1) Washington "Nay" (29-0)

H.B. 1846 (Henderson) Relating to the creation of rural fire prevention districts. (28-1) Washington "Nay" (29-0)

H.B. 1866 (Jones) Relating to the daily and monthly allowable production for certain gas wells. (28-1) Washington "Nay" (29-0)

H.B. 1883 (Farabee) Relating to liability for persons ordering or administering required immunizations. (28-1) Washington "Nay" (29-0)

H.B. 1889 (Whitmire) Relating to the establishment of an appellate judicial system fund in certain counties. (28-1) Washington "Nay" (29-0)

H.B. 1912 (Parmer) Relating to the offense of using a live animal as a lure in dog race training or in dog coursing on a racetrack. (28-1) Washington "Nay" (29-0)

H.B. 1955 (Traeger) Relating to the regulation of certain fireworks. (28-1) Washington "Nay" (29-0)

H.B. 2067 (Brown) Relating to the composition of the appraisal review board in certain counties. (28-1) Washington "Nay" (29-0)

H.B. 2089 (Barrientos) Relating to compensation subject to contributions to and credit in the Teacher Retirement System of Texas. (28-1) Washington "Nay" (29-0)

Senator Barrientos offered the following committee amendment to the bill:

Amend **H.B. 2089** as follows:

In SECTION 4, after the word "by" and before the word "of," strike the word "employees" and insert the word "representatives" in lieu thereof.

On motion of Senator Barrientos and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

H.B. 2160 (Washington) Relating to the confidentiality of certain information in family violence protective orders. (28-1) Washington "Nay" (29-0)

H.B. 2219 (Blake) Relating to the submission of reports concerning on-the-job injuries sustained by State employees. (28-1) Washington "Nay" (29-0)

H.B. 2240 (Parmer) Relating to restraining orders under the Deceptive Trade Practices and Consumer Protection Act. (28-1) Washington "Nay" (29-0)

H.B. 2256 (Whitmire) Relating to the extension of the term of, creation of, addition to, or modification of restrictive covenants applicable to certain real estate subdivisions. (28-1) Washington "Nay" (29-0)

H.B. 2287 (Krier) Relating to the amendment and repeal of certain statutes to conform to Article I, Section 3a, of the Texas Constitution. (28-1) Washington "Nay" (29-0)

H.B. 2298 (Leedom) Relating to the necessary parties to an appeal of a property tax determination. (28-1) Washington "Nay" (29-0)

H.B. 2395 (Howard) Relating to the applicability of the Development Corporation Act of 1979 to certain projects. (28-1) Washington "Nay" (29-0)

H.B. 2399 (Caperton) Relating to medical malpractice coverage for certain institutions. (28-1) Washington "Nay" (29-0)

H.B. 2407 (Henderson) Relating to the creation of the Northgate Crossing Municipal Utility District No. 2. (28-1) Washington "Nay" (29-0)

H.B. 2409 (Henderson) Relating to the creation of the Northgate Crossing Municipal Utility District No. 1. (28-1) Washington "Nay" (29-0)

H.B. 2428 (Traeger) Relating to the Comal County Juvenile Board. (28-1) Washington "Nay" (29-0)

H.B. 2435 (Montford) Relating to the jurisdiction of the municipal courts of record of Lubbock. (28-1) Washington "Nay" (29-0)

H.B. 2444 (Sharp) Relating to taking sand, gravel, marl, shell, and mudshell from Cedar Bayou in Aransas County. (28-1) Washington "Nay" (29-0)

C.S.H.B. 2447 (Mauzy) Relating to the creation of and the annexation of territory to the Grand Prairie Metropolitan Utility and Reclamation District. (28-1) Washington "Nay" (29-0)

H.C.R. 1 (Uribe) Granting Executive Condominiums, Inc., permission to sue the State of Texas and the General Land Office. (vv)

H.C.R. 75 (Lyon) Directing the State Board of Education to require that teachers education programs include instruction relating to dyslexia. (vv)

H.C.R. 100 (Barrientos) Directing the Central Education Agency to assess the possible causes of high teacher turnover in special education. (vv)

H.C.R. 107 (Parmer) Requesting the Texas Department of Human Resources to use any available unexpended State funds appropriated to the department for purposes of administering the Temporary Emergency Food Assistance Program. (vv)

H.C.R. 133 (Howard) Granting Michael Russell and others permission to sue the State of Texas. (vv)

H.C.R. 153 (Mauzy) Granting the estate, heirs, and legal representatives of Sue Ann Chapin permission to sue the State of Texas. (vv)

H.C.R. 172 (Blake) Memorializing Congress to encourage the Internal Revenue Service to speed its future collection and crediting of the tax charges to Texas employers through the loss of .3% of the FUTA credit. (vv)

S.C.R. 166 (Sarpalius) Requesting the Republic of Mexico to loan the Alamo battle flag to Texas for display during the sesquicentennial. (vv)

S.B. 1480 (Sims) Relating to the powers and duties of the Lower Colorado River Authority. (28-1) Washington "Nay" (29-0)

S.B. 1488 (Brown) Relating to designating State Highway 288 as the Brazoria Parkway. (28-1) Washington "Nay" (29-0)

Senator Brown offered the following committee amendment to the bill:

Amend **S.B. 1488** on Page 1, Line 8 - strike "stretching from Houston", Add "from the Brazoria County Line"

On motion of Senator Brown and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

H.C.R. 40 (Truan) Designating the Corpus Christi Aquarium Association as the "Official Aquarium of Texas." (vv)

H.B. 156 (Edwards) Relating to the use of donated funds in making certain loans to teachers and future teachers. (28-1) Washington "Nay" (29-0)

H.B. 569 (Brown) Relating to the furnishing of indelible marking instruments for use at polling places. (28-1) Washington "Nay" (29-0)

H.B. 1114 (Barrientos) Relating to the organization, powers, and duties of health authorities, public health districts, local health departments, and public health districts. (28-1) Washington "Nay" (29-0)

H.B. 1148 (Sarpalius) Relating to the creation of the Collingsworth County Underground Water Conservation District. (28-1) Washington "Nay" (29-0)

H.B. 1306 (Brown) Relating to the administration and regulation of solid waste management practices and of the storage, processing, or disposal of hazardous waste. (28-1) Washington "Nay" (29-0)

H.B. 1365 (Krier) Relating to certain presumptions in the prosecution of theft offenses. (28-1) Washington "Nay" (29-0)

Senator Krier offered the following committee amendment to the bill:

Amend **H.B. 1365**, page 2, by deleting line 19 and substituting in its place the following language:

"abandoned or wrecked motor vehicles or parts of an abandoned or wrecked motor vehicle for"

On motion of Senator Krier and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

H.B. 1591 (Truan) Relating to predator control from aircraft in Brooks, Kenedy, and Willacy counties. (28-1) Washington "Nay" (29-0)

H.B. 1702 (Brown) Relating to the creation, administration, powers, duties, operations, financing, and dissolution of stormwater control districts. (28-1) Washington "Nay" (29-0)

H.B. 1976 (Barrientos) Relating to exempting certain information about government personnel from the open records act. (28-1) Washington "Nay" (29-0)

H.B. 2053 (Krier) Relating to requiring psychological counseling as a condition of probation or parole for certain defendants and requiring certain defendants to pay for psychological counseling for their victims. (28-1) Washington "Nay" (29-0)

Senator Krier offered the following committee amendment to the bill:

Amend **H.B. 2053**, page 3, line 27 by deleting "shall" and substituting in its place "may".

Senator Krier offered the following committee amendment to the bill:

Amend **H.B. 2053**, page 3, by striking lines 9-12 and substituting in its place "expense."

On motion of Senator Krier and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

H.B. 2151 (Brown) Relating to the fiscal year in certain counties. (28-1) Washington "Nay" (29-0)

H.B. 2207 (Brown) Relating to the creation of the Brazos Bend Water Authority. (28-1) Washington "Nay" (29-0)

H.B. 2436 (Lyon) Relating to the County Courts at law in Smith County. (28-1) Washington "Nay" (29-0)

H.B. 2449 (Parker) Relating to the creation of the Montgomery County Municipal Utility District No. 69. (28-1) Washington "Nay" (29-0)

H.B. 2450 (Parker) Relating to the creation of the Montgomery County Municipal Utility District No. 70. (28-1) Washington "Nay" (29-0)

H.B. 2451 (Parker) Relating to the creation of the Montgomery County Municipal Utility District No. 71. (28-1) Washington "Nay" (29-0)

H.B. 2452 (Parker) Relating to the creation of the Montgomery County Municipal Utility District No. 72. (28-1) Washington "Nay" (29-0)

H.B. 2453 (Parker) Relating to the creation of the Montgomery County Municipal Utility District No. 73. (28-1) Washington "Nay" (29-0)

H.B. 2454 (Parker) Relating to the creation of the Montgomery County Municipal Utility District No. 74. (28-1) Washington "Nay" (29-0)

H.B. 2470 (Sims) Relating to the creation of the Crane County Water District and the authority of that district and other governmental and private entities to contract. (28-1) Washington "Nay" (29-0)

Senator Sims offered the following committee amendment to the bill:

Amend **H.B. 2470** as follows:

Insert the following new Section 6 and renumber subsequent Sections 7-27:

Section 6. The District shall adopt and implement a program of water conservation consistent with rules and criteria duly adopted and enforceable by the Department of Water Resources for similarly situated districts in the region. A program of water conservation means the practices, techniques, and technologies which will reduce the consumption of water, reduce the loss or waste of water, improve efficiency in the use of water, or increase the recycling and reuse of water so that a water supply is made available for future uses.

On motion of Senator Sims and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

BILLS AND RESOLUTIONS REMOVED FROM LOCAL AND UNCONTESTED BILLS CALENDAR

Bills/Resolutions Removed

H.B. 162
H.B. 1219
H.B. 2375
S.B. 152
H.B. 2290
H.B. 2433
H.B. 1837
S.B. 1468
S.R. 455
S.R. 485
H.C.R. 203

Senators Objecting

Santiesteban, Blake
Mauzy, Blake
Mauzy, Blake
Harris, Blake
Harris, Blake
Harris, Blake
Washington, Blake
Traeger, Blake
Traeger, Blake
Traeger, Blake
Traeger, Blake

REPORT OF STANDING COMMITTEE

By unanimous consent, Senator Traeger submitted the following report for the Committee on Intergovernmental Relations:

H.B. 2349
H.B. 1172

H.B. 595
H.B. 1879
H.B. 1343
H.B. 1481
H.B. 1657
H.B. 2478
H.B. 2302 (Amended)
H.B. 1594

MESSAGE FROM THE HOUSE

House Chamber
May 24, 1985

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 2520, Relating to authority to establish a foreign trade zone at the location of the Saturn automobile production facility.

H.B. 2502, Relating to the election date for the Buffalo Lake Water District.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

**CONCLUSION OF SESSION FOR LOCAL AND UNCONTESTED
BILLS CALENDAR**

The Presiding Officer (Senator Blake in Chair) announced that the session for the consideration of the Local and Uncontested Bills Calendar was concluded.

CONGRATULATORY RESOLUTIONS

H.C.R. 236 - (Sharp): Extending congratulations to William H. Pieratt.

S.C.R. 117 - By Edwards: Designating a Texas Research Week.

S.R. 519 - By Sarpalius: Extending congratulations to David William Sarpalius on twelfth birthday.

ADJOURNMENT

On motion of Senator Mauzy, the Senate at 5:44 o'clock p.m. adjourned until 10:00 o'clock a.m. tomorrow.

APPENDIX

Sent to Secretary of State
(May 22, 1985)

S.J.R. 15

S.J.R. 33

(May 24, 1985)

S.J.R. 10

Signed by Governor
(May 24, 1985)

S.B. 616 (Effective January 1, 1986)